Meeting Minutes January 29, 2025

Board Members Present

Bart Bouse (virtual, arrived at 2:16 p.m.)
Amy Emerson
Janet Foss
Colleen Johnson
Les Thomas Sr.
Jenna Worthen
Karen Youngblood

Board Members Absent

Call to Order

Chair Youngblood called the January 29, 2025 Board of Juvenile Affairs and Board of Oklahoma Youth Academy Charter School special meeting to order at 2:05 p.m. and requested a roll call.

Public Comments

There were no public comments.

Election of the 2025 Board of Juvenile Affairs Chair

Judge Foss nominated Karen Youngblood with a second by Ms. Worthen

Aye: Emerson, Foss, Johnson, Thomas, Worthen, and Youngblood

Nay: Abstain:

Absent: Bouse

Ms. Karen Youngblood elected 2025 Board of Juvenile Affairs Chair.

Election of the 2025 Board of Juvenile Affairs Vice Chair

Ms. Worthen nominated Janet Foss with a second by Chair Youngblood

Aye: Emerson, Foss, Johnson, Thomas, Worthen, and Youngblood

Nay: Abstain:

Absent: Bouse

Judge Janet Foss elected 2025 Board of Juvenile Affairs Vice Chair.

<u>Discussion and/or possible vote to approve a Chair for the Rates and Standards committee, pursuant to OAC 377:1-1-8</u>

Ms. Worthen nominated Amy Emerson with a second by Mr. Thomas

Aye: Emerson, Foss, Johnson, Thomas, Worthen, and Youngblood

Nay: Abstain:

Absent: Bouse

Dr. Amy Emerson elected 2025 Chair for the Rates and Standards committee.

<u>Discussion and/or possible vote to amend and/or approve the proposed minutes for the December 17, 2024 board meeting</u>

Ms. Worthen moved to approve with a second by Dr. Emerson

Aye: Foss, Johnson, Thomas, and Youngblood

Nay:

Abstain: Emerson and Worthen

Absent: Bouse

The proposed minutes for the December 17, 2024 board meeting approved.

Mr. Bouse joined the meeting on Zoom at 2:16 p.m.

<u>Presentation on proposed amendments to the Office of Juvenile Affairs Administrative Code</u>

Ms. Talbert went through the proposed administrative rule amendments, see the attached presentation.

<u>Public comment on proposed amendments – comments will be limited to no more than a combined total of sixty (60) minutes</u>

There were no public comments.

Vote to amend and/or approve the proposed amendments to the Office of Juvenile Affairs Administrative code listed on agenda item B(1)(a)

Ms. Worthen moved to approve with a second by Mr. Thomas

Aye: Bouse, Emerson, Foss, Johnson, Thomas, and Youngblood

Nay: Abstain: Absent: The proposed amendments to the Office of Juvenile Affairs Administrative code listed on agenda item B(1)(a) approved.

Vote to amend and/or approve agenda the proposed amendments to the Office of Juvenile Affairs Administrative code listed on items B(1)(b)(i, iii, iv, and v)

Ms. Worthen moved to approve with a second by Dr. Emerson

Aye: Bouse, Emerson, Foss, Johnson, Thomas, and Youngblood

Nay: Abstain: Absent:

The proposed amendments to the Office of Juvenile Affairs Administrative code listed on items B(1)(b)(I, iii, iv, and v)

<u>Vote to amend and/or approve the proposed amendments to the Office of Juvenile Affairs Administrative code listed on agenda items B(1)(b)(ii)</u>

Ms. Worthen pointed out a grammatical error; correcting pro-Tempore to Pro-Tempore.

Ms. Worthen moved to approve as amended with a second by Mr. Thomas

Aye: Bouse, Emerson, Foss, Johnson, Thomas, and Youngblood

Nay: Abstain: Absent:

The amended proposed amendments to the Office of Juvenile Affairs Administrative code listed on agenda items B(1)(b)(ii) approved.

Vote to amend and/or approve the proposed amendments to the Office of Juvenile Affairs Administrative code listed on agenda items B(2)(a)(i-iii and v-xiv)

Ms. Worthen moved to approve with a second by Dr. Emerson

Aye: Bouse, Emerson, Foss, Johnson, Thomas, and Youngblood

Nay: Abstain: Absent:

The proposed amendments to the Office of Juvenile Affairs Administrative code listed on agenda items B(2)(a)(i-iii and v-xiv) approved.

<u>Vote to amend and/or approve the proposed amendments to the Office of Juvenile Affairs Administrative code listed on agenda items B(2)(a)(iv)</u>

Ms. Worthen pointed out a grammatical error; correcting the first sentence by amending assure to ensure.

Ms. Worthen moved to approve as amended with a second by Mr. Thomas

Aye: Bouse, Emerson, Foss, Johnson, Thomas, and Youngblood

Nay: Abstain: Absent:

The amended proposed amendments to the Office of Juvenile Affairs Administrative code listed on agenda items B(2)(a)(iv) approved.

Vote to amend and/or approve the proposed amendments to the Office of Juvenile Affairs Administrative code listed on agenda items B(2)(b)

Ms. Worthen moved to approve with a second by Mr. Thomas and Dr. Emerson

Aye: Bouse, Emerson, Foss, Johnson, Thomas, and Youngblood

Nay: Abstain: Absent:

The proposed amendments to the Office of Juvenile Affairs Administrative code listed on agenda items B(2)(b) approved.

<u>Vote to amend and/or approve the proposed amendments to the Office of Juvenile Affairs Administrative code listed on agenda items B(2)(c)</u>

Ms. Worthen moved to approve with a second by Dr. Emerson

Aye: Bouse, Emerson, Foss, Johnson, Thomas, and Youngblood

Nay: Abstain: Absent:

The proposed amendments to the Office of Juvenile Affairs Administrative code listed on agenda items B(2)(c) approved.

<u>Vote to amend and/or approve the proposed amendments to the Office of Juvenile Affairs</u> Administrative code listed on agenda items B(2)(d)

Ms. Worthen moved to approve with a second by Dr. Emerson

Aye: Bouse, Emerson, Foss, Johnson, Thomas, and Youngblood Nay: Abstain: Absent:

The proposed amendments to the Office of Juvenile Affairs Administrative code listed on agenda items B(2)(d) approved.

<u>Vote to amend and/or approve the proposed amendments to the Office of Juvenile Affairs</u> Administrative code listed on agenda items B(2)(e)

Ms. Worthen moved to approve with a second by Mr. Thomas

Aye: Bouse, Emerson, Foss, Johnson, Thomas, and Youngblood

Nay: Abstain: Absent:

The proposed amendments to the Office of Juvenile Affairs Administrative code listed on agenda items B(2)(e) approved.

Vote to amend and/or approve the proposed amendments to the Office of Juvenile Affairs Administrative code listed on agenda items B(2)(f)

Ms. Worthen moved to approve with a second by Mr. Thomas and Dr. Emerson

Aye: Bouse, Emerson, Foss, Johnson, Thomas, and Youngblood

Nay: Abstain: Absent:

The proposed amendments to the Office of Juvenile Affairs Administrative code listed on agenda items B(2)(f) approved.

Vote to amend and/or approve the proposed amendments to the Office of Juvenile Affairs Administrative code listed on agenda items B(2)(g)

Ms. Worthen moved to approve with a second by Dr. Emerson

Aye: Bouse, Emerson, Foss, Johnson, Thomas, and Youngblood

Nay: Abstain: Absent:

The proposed amendments to the Office of Juvenile Affairs Administrative code listed on agenda items B(2)(g) approved.

<u>Vote to amend and/or approve the proposed amendments to the Office of Juvenile Affairs Administrative code listed on agenda items B(2)(h)</u>

Ms. Worthen moved to approve with a second by Mr. Thomas and Dr. Emerson

Aye: Bouse, Emerson, Foss, Johnson, Thomas, and Youngblood

Nay: Abstain: Absent:

The proposed amendments to the Office of Juvenile Affairs Administrative code listed on agenda items B(2)(h) approved.

<u>Vote to amend and/or approve the proposed amendments to the Office of Juvenile Affairs</u> Administrative code listed on agenda items B(2)(i)

Ms. Worthen moved to approve with a second by Mr. Thomas

Aye: Bouse, Emerson, Foss, Johnson, Thomas, and Youngblood

Nay: Abstain: Absent:

The proposed amendments to the Office of Juvenile Affairs Administrative code listed on agenda items B(2)(j) approved.

<u>Vote to amend and/or approve the proposed amendments to the Office of Juvenile Affairs</u> Administrative code listed on agenda items B(2)(j)

Ms. Worthen moved to approve with a second by Mr. Thomas

Aye: Bouse, Emerson, Foss, Johnson, Thomas, and Youngblood

Nay: Abstain: Absent:

The proposed amendments to the Office of Juvenile Affairs Administrative code listed on agenda items B(2)(j) approved.

Announcements/ comments

Chair Youngblood: We are going save our comments for our beloved board member at our next board meeting. We have a reception at 3pm.

Director Tardibono: I would like to introduce our Director of Human Resources, Pam Mulvaney.

Adjournment Chair Youngblood adjourned the meeting at 2:47 p.m.	
Minutes approved in regular session on the 26 th day of March, 2025.	
Prepared by:	Signed by:
Audrey Rockwell Audrey Rockwell (Apr 1, 2025 08:57 CDT)	Karen Youngblood Karen Youngblood (Mar 26, 2025 12:46 CDT)
Audrey Rockwell, Secretary	Karen Youngblood, Chair

proposed - Jan 2025 minutes

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January 29, 2025

Special Board of Juvenile Affairs Meeting





Chapter 1 Subchapter 1 Amendments

Chapter 1. Function and Structure of the Office of Juvenile Affairs Subchapter 1. Function and Structure of the Office of Juvenile Affairs

377:1-1-1. Purpose – Grammar edit

The following rules are a proposal to revoke the rules and move them into a more appropriate space in the existing Oklahoma Administrative Code

377:1-1-5. Board of Juvenile Affairs

377:1-1-6. Rates and Standards Committee

377:1-1-7. Legal Base for Rates and Standards Committee

377:1-1-8. Rates and Standards Committee

377:1-1-9. Conduct of Committee meetings

377:1-1-10. Public hearing regarding a fixed rate

Chapter 1 Subchapter 3 Amendments

Chapter 1. Function and Structure of the Office of Juvenile Affairs Subchapter 3. Board of Juvenile Affairs

Moved the rules from Subchapter 1 into Subchapter 3, because that is more appropriate. Combined all of the existing rules into the rules below

377:1-3-25. Purpose

377:1-3-26. Board Composition

377:1-3-27. Rates and Standards Committee

377:1-3-28. Conduct of Committee meetings

377:1-3-29. Board meeting in which the Board may vote for a fixed rate

Chapter 3 Subchapter 1 Amendments

Chapter 3. Administrative Services Subchapter 1. Office of the Executive Director Part 3. Advocate General

All proposed amendments include removal of statutory language, modernizing to current language and practices.

377:3-1-20. Legal Basis

377:3-1-21. Definitions

377:3-1-23. Job Duties

377:3-1-24. Staff

377:3-1-25. Abuse, neglect, and caretaker misconduct of a child in OJA custody and placed in a secure facility or other facility operated by or through contract with OJA

Chapter 3. Administrative Services Subchapter 1. Office of the Executive Director Part 3. Advocate General

All proposed amendments include removal of statutory language, modernizing to current language and practices.

377:3-1-26. Advocate General procedures during an abuse, neglect, or caretaker misconduct investigation for other than OJA secure institutions

377:3-1-27. OJA grievance policy

377:3-1-28. General Grievance Procedure

377:3-1-31. Monitoring and evaluation

377:3-1-32. Notice to the Executive Director – Revoke

377:3-1-33. Coordination with other OJA Divisions – Revoke

Chapter 3. Administrative Services Subchapter 1. Office of the Executive Director Part 3. Advocate General

Proposing revocation of the following rules as these items are already covered by Title 10A

377:3-1-32. Notice to the Executive Director

377:3-1-33. Coordination with other OJA Divisions

377:3-1-34. Coordination with other monitoring entities

377:3-1-35. Conflict of Interest

377:3-1-36. Mandatory annual review of rules

Chapter 3 Subchapter 3 & 5 Amendments

Chapter 3. Administrative Services Subchapter 3. Office of General Counsel Services and Subchapter 5. Office of Human Resources Management

Proposing revocation of the following rules as these items are already covered by state and federal statutes

377:3-3-1. Purpose

377:3-3-2. Legal Base

377:3-3-3. Duties and responsibilities

377:3-5-1. Purpose

377:3-5-2. Duties & Responsibilities of the office of Human Resources Management

377:3-5-12. The Office of Juvenile Affairs promotional plan

377:3-5-13. Office of Juvenile Affairs Services Fair Labor Standards Act

Chapter 3 Subchapter 7 Amendments

Chapter 3. Administrative Services Subchapter 7. Finance Department

Create one rule regarding the standards OJA will follow in its financial policies and the revocation of unnecessary rules.

377:3-7-1. Legal Basis and Purpose – Amend and combine the other rules into this rule

377:3-7-2. Purpose - Revoke

377:3-7-3. Regulatory Authority - Revoke

377:3-7-4. OJA financial system - Revoke

Chapter 3 Subchapter 9 Amendments

Chapter 3. Administrative Services Subchapter 9. Office of Policy Part 7. Policy and Accreditation

377:3-9-40. Legal basis – proposed amendments are updating requests to be made via email and combing rules into one rule

377:3-9-41. Purpose – revoked and moved needed language to rule above

377:3-9-42. Public hearings – revoked, this is required by the Administrative Procedures Act (APA)

377:3-9-43. Availability of OJA rules, policies, and procedures – proposed amendments are updating requests to be made via email

377:3-9-44. Petitions for the promulgation, amendment, or repeal of rules – proposed amendments are updating requests to be made via email

Chapter 3 Subchapter 13 Amendments

Chapter 3. Administrative Services Subchapter 13. Office of Public Integrity Part 1. General Provisions

377:3-13-1. General Purpose, legal basis, and authority – proposed amendments adjust language to meet a federal requirement to give our investigators access to critically needed databases

377:3-13-2. Internal affairs investigations – proposed amendments adjust language to meet a federal requirement to give our investigators access to critically needed databases

Chapter 3. Administrative Services Subchapter 13. Office of Public Integrity Part 3. Requirements for Secure Juvenile Detention Centers

377:3-13-43. Staff Requirements – making the emergency rules approved in 2024 permanent

377:3-13-43. Security and Control – after working with the Oklahoma Juvenile Detention Association we are proposing the following amendments: updating the ratios to match PREA standards, add a clarifying definition of direct-care staff

Chapter 3. Administrative Services Subchapter 13. Office of Public Integrity Part 3. Requirements for Community Intervention Centers (CIC)

377:3-13-88. Personnel – proposed amendments extend the changes to staffing requirements for juvenile detentions to CICs; this is done help them with staffing issues.

Chapter 3
Subchapter 13 Part 11
Amendments

Chapter 3. Administrative Services Subchapter 13. Office of Public Integrity Part 11. Requirements for Certification of Secure Care

377:3-13-123. Provisional Certifications – Revoke

377:3-13-144. Security and Control – amendment prohibits the use of OC spray, and formalizing the action the Board and agency took in 2016

Proposed Rule Language for Board Action



CHAPTER 1. FUNCTION AND STRUCTURE OF THE OFFICE OF JUVENILE AFFAIRS

SUBCHAPTER 1. FUNCTION AND STRUCTURE OF THE OFFICE OF JUVENILE AFFAIRS

377:1-1-1. Purpose

The purpose of this Chapter is to describe the organizational structure and function of the Office of Juvenile Affairs (OJA). This Chapter indicates the legal <u>basis</u> <u>bases</u> of OJA, identifies OJA divisions and units, and outlines other rules governing the overall operation of the OJA.

377:1-1-5. Board of Juvenile Affairs [REVOKED]

- (a) Composition. The Board of Juvenile Affairs (Board), per 10A O.S. § 2-7-101, is the governing body for OJA. The Board consists of nine (9) members; five (5) members appointed by the Governor, two (2) members appointed by the President Pro-Tempore of the Senate, and two (2) members appointed by the Speaker of the House, all members serve at the pleasure of their appointing authority.
- (b) Meetings. Regularly scheduled meetings of the Board shall be held at places, dates, and times fixed by the Board and after appropriate notice. Special meetings may be called by the Chair or by five (5) members of the Board. Emergency meetings of the Board may be called as provided by Oklahoma statutes. All meetings, including executive sessions, shall be conducted in accordance with the provisions of the Open Meeting Act.
- (c) Voting. A majority of members serving on the Board shall constitute a quorum.
 - (1) The acts of the majority of the members present at a meeting at which a quorum is present shall be the acts of the Board except that a vote of not less than four (4) members of the Board shall be required to amend these rules.
 - (2) A member may disqualify from a vote at any time and without explanation. A member who disqualifies from a vote shall be considered to be not present for purposes of that vote.
- (d) Election of officers. The Chair and Vice-chair shall be elected in accordance with 10A O.S. § 2-7-101(E), and shall hold office until his or her successor has been duly elected or upon death, resignation, or removal.
- (e) Vacancies. A vacancy in the elected position of Chair or Vice-chair because of death, resignation, removal, disqualification, or otherwise, may be filled by the Board for the unexpired portion of the term of the position.
- (f) Duties of the position of Chair and Vice-chair. The Chair, or in the Chair's absence, the Vice-chair, shall preside at all meetings of the Board, including executive sessions. The Chair shall be the final authority on all procedural issues, and may, when appropriate, refer to and follow the recommendations of legal counsel for the OJA or "Robert's Rules of Order" to resolve a procedural issue.
 - (1) The Chair, within two (2) weeks of a member's new appointment, shall:
 - (A) brief the member of the Board regarding the duties and responsibilities of the Board and its members;
 - (B) provide the new member a copy of the statutes pertinent to the Board and its duties;
 - (C) provide a copy of the monthly operating budgets of OJA for the preceding twelve months;
 - (D) provide a copy of the rules under which OJA functions and operates; and
 - (E) provide such other information as is necessary to assure that the new member is advised of his or her duties and responsibilities.
 - (2) The Chair may delegate the briefing described in paragraph (1) of this subsection in whole or part to the Executive Director or a managing officer, but the responsibility for its accomplishment shall remain with the Chair.
- (g) **Responsibilities.** The Board of Juvenile Affairs, in addition to the duties required by 10A O.S. §§ 2-3-103, 2-4-103, 2-7-101, 2-7-201, 2-7-305(D), 2-7-306, 2-7-608, 2-7-613, 2-7-614, 2-7-616, 2-7-704, and 2-8-112, may:
 - (1) review and approve OJA's budget request to the Governor;
 - (2) adopt nonbinding resolutions requesting action by OJA in response to comments from the public or upon the Board's own initiative:
 - (3) if necessary and in accordance with 10A O.S. § 2-7-201(G), designate an interim or acting Executive Director;
 - (4) advise OJA with respect to real estate leases;
 - (5) review the OJA Annual Report which analyzes and evaluates the effectiveness of OJA programs and services;
 - (6) promulgate rules for OJA to obtain national criminal history records searches for personnel working with or around juveniles in OJA institutions and contracted facilities, pursuant to 10 O.S. § 404.1(A)(14);
 - (7) receive and review institutional inspection reports of the State Fire Marshall and Commissioner of Public Health;
 - (8) establish standards for regimented juvenile training programs;
 - (9) establish certification standards for municipal juvenile facilities for temporary detention;
 - (10) approve a form for the statistical reporting of detention of persons under the age of 18;

377:1-1-6. Rates and Standards Committee [REVOKED]

The Board of Juvenile Affairs (Board) is the official rate-setting body for the programs administered by OJA. The Rates and Standards Committee (Committee) is responsible for making recommendations to the Board regarding fixed fiscal rates and

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standards for service contracts entered into by OJA. The Rates and Standards Committee is not authorized to make decisions regarding rate setting. The Committee's purpose is to advise and make recommendations to the Board.

377:1-1-7. Legal Base for Rates and Standards Committee [REVOKED]

The legal base for establishing fixed and uniform rates is found at 10A O.S. 2-7-101(F)(6) and 74 O.S. § 85.7(A)(6).

377:1-1-8. Rates and Standards Committee membership [REVOKED]

The Chair of the Rates and Standards Committee shall be a member of the Board of Juvenile Affairs (Board) and shall be appointed by the Board. In addition to the Chair, the Committee shall be comprised of the Board's Finance Sub-Committee Chair, and the Executive Director of OJA, or designee.

377:1-1-9. Conduct of Committee meetings [REVOKED]

- (a) Committee meetings are called by either the Chair, Executive Director, or Board of Juvenile Affairs. A majority of the Committee constitutes a quorum. Recommendations of the Committee are approved by a majority of the members present and voting.
- (b) During a meeting in which the Committee intends to vote on a rate setting recommendation for the Board of Juvenile Affairs, the public, vendors, or OJA staff shall provide evidence to support rate recommendations.
- (c) A party requesting a rate shall supply the following information and data to justify the proposed rate recommendation:
 - (1) a description of the program or service, including the target population and an annual estimate of the number of juveniles to whom the service will be provided;
 - (2) any historical rate information regarding previous rates established for the program, or rates for similar programs or services if no rate exists;
 - (3) an explanation and cite of cite and explain any Federal, State, and other regulations and standards which apply;
 - (4) the rate being proposed, a summary of the program and cost variables included in the rate, and a program and fiscal impact statement on the juvenile justice system;
 - (5) the operational budget and narrative justification for each budget category, including the methodology and cost computations used to arrive at the proposed rate; and
 - (6) an estimated total cost of the service.
- (d) If the Committee determines additional information is needed, the Chair may recess the meeting until a later date to allow interested parties or staff additional time to secure the information.
- (e) In making its recommendations, the Committee shall consider any relevant data which is consistent with applicable state plans, all relevant administrative rules, OJA policies and procedures, and statutory provisions.
- (f) Once the Committee establishes a recommendation, notification of the proposed rates and standards along with any supporting documentation will be sent to the Office of Management and Enterprise Services (OMES). The Chair shall place the item on the agenda of a Board of Juvenile Affairs meeting for a public hearing to set the rate, after proposed rates and standards have been approved by OMES. The public hearing may be held during any Board meeting.

377:1-1-10. Public hearing regarding a fixed rate [REVOKED]

- (a) Any comments from OMES, whether made in person or in writing, are included in the minutes of the Board meeting.
- (b) During the Board meeting, the Chair of the Rates and Standards Committee, or a designee, shall present the proposed rate and provide the Committee's recommendation to the Board.
- (c) After the Chair's presentation, interested parties shall be given the opportunity for public comments regarding the proposed rates. Each rate must be openly and separately discussed before the Board's vote. The Board may vote to approve, deny, or modify the recommendation of the Rates and Standards Committee.

SUBCHAPTER 3. BOARD OF JUVENILE AFFAIRS

377:1-3-25. Purpose

<u>The purpose of this Chapter is to describe the organizational structure and function of the Board of Juvenile Affairs (Board). See 10A O.S. § 2-7-101.</u>

377:1-3-26. <u>Legal baseBoard Composition</u>

- (a) Composition. The Board of Juvenile Affairs (Board), per 10A O.S. § 2-7-101, is the governing body for OJA. The Board consists of nine (9) members: five (5) members appointed by the Governor, two (2) members appointed by the President pro-Tempore of the Senate, and two (2) members appointed by the Speaker of the House. All members serve at the pleasure of their appointing authority.
- (b) Meetings. Regularly scheduled meetings of the Board shall be held at places, dates, and times fixed by the Board and after appropriate notice. Special meetings may be called by the Chair or by five (5) members of the Board. Emergency meetings of the

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Board may be called as provided by Oklahoma statutes. All meetings, including executive sessions, shall be conducted in accordance with the provisions of the Open Meeting Act.

- (c) Voting. A majority of members serving on the Board shall constitute a quorum.
 - (1) The acts of the majority of the members present at a meeting at which a quorum is present shall be the acts of the Board except that a vote of not less than four (4) members of the Board shall be required to amend these rules.
 - (2) A member may be disqualified from a vote at a time and without explanation. A member who is disqualified from a vote shall be considered to be not present for the purposes of that vote.
- (d) Election of officers. The Chair and Vice-chair shall be elected in accordance with 10A O.S. § 2-7-101(E), and shall hold office until his or her successor has been duly elected or upon death, resignation, or removal.
- (e) Vacancies. A vacancy in the elected position of Chair or Vice-chair because of death, resignation, removal, disqualification, or otherwise, may be filled by the Board for the unexpired portion of the term of the position.
- (f) Duties of the position of Chair and Vice-Chair. The Chair, or in the Chair's absence, the Vice-Chair shall preside at all meetings of the Board, including executive sessions. The Chair shall be the final authority on all procedural issues. When appropriate, the Board may refer to and follow the recommendations of legal counsel for OJA or "Robert's Rules of Order" to resolve a procedural issue.
 - (1) The Chair, within two (2) weeks of a member's new appointment, shall:
 - (A) Brief the member of the Board regarding the duties and responsibilities of the Board and its members;
 - (B) Provide the new member a copy of the statutes pertinent to the Board and its duties;
 - (C) Provide a copy of the monthly operating budgets of OJA for the preceding twelve months;
 - (D) Provide a copy of the rules under which OJA functions and operates; and
 - (\underline{E}) Provide such other information as necessary to assure the new member is advised of his or her duties and responsibilities.
 - (2) The Chair may delegate the briefing described in paragraph (1) of this subsection in whole or part to the Executive Director or a managing officer. It is still the Chair's responsibility to verify the new member received the briefing.
- (g) **Responsibilities.** The Board of Juvenile Affairs, in addition to the duties required by 10A O.S. §§ 2-3-103, 2-4-103, 2-7-101, 2-7-201, 2-7-305(D), 2-7-306, 2-7-608, 2-7-613, 2-7-614, 2-7-616, 2-7-704, and 2-8-112, may:
 - (1) Review and approve OJA's budget request to the Governor;
 - (2) Adopt nonbinding resolutions requesting action by OJA in response to comments from the public or upon the Board's own initiative;
 - (3) If necessary and in accordance with 10A O.S. § 2-7-201(G), designate an interim or acting Executive Director;
 - (4) Advise OJA with respect to real estate leases;
 - (5) Review the OJA Annual Report, which analyzes and evaluates the effectiveness of OJA programs and services;
 - (6) Promulgate rules for OJA to obtain national criminal history record searches for personnel working with or around juveniles in OJA institutions and contracted facilities, pursuant to 10 O.S. § 404.1(A)(14);
 - (7) Receive and review institutional inspection reports of the State Fire Marshall and Commissioner of Public Health;
 - (8) Establish standards for regimented juvenile training programs;
 - (9) Establish certification standards for municipal juvenile facilities for temporary detention; and
 - (10) Approve a form for the statistical reporting of detention of persons under the age of 18.

377:1-3-27. Rates and Standards Committee membership

The Board of Juvenile Affairs (Board) is the official rate-setting body for the programs administered by OJA. See 10A O.S. 2-7-101(F)(6) and 74 O.S. § 85.7(A)(6)(f). The Chair of the Rates and Standards Committee shall be a member of the Board of Juvenile Affairs (Board) and shall be appointed by the Board. In addition to the Chair, the Committee shall comprise the Board's Finance Sub-Committee Chair and the Executive Director of OJA or designee. The Rates and Standards Committee (Committee) is responsible for making recommendations to the Board regarding fixed fiscal rates and standards for service contracts entered into by OJA. The Rates and Standards Committee is not authorized to make decisions regarding rate setting; its purpose is to advise and make recommendations to the Board.

377:1-3-28. Conduct of Committee meetings

- (a) Committee meetings are called by the Committee Chair, Executive Director, or the Board. A majority of the Committee constitutes a quorum. The committee's recommendations are approved by a majority of the members present and voting.
- (b) During a meeting in which the Committee intends to vote on a rate-setting recommendation for the Board, the public, vendors, or OJA staff shall provide evidence to support rate recommendations.
- (c) A party requesting a rate shall supply the following information and data to justify the proposed rate recommendation:
 - (1) A description of the program or service, including the target population and an annual estimate of the number of juveniles to whom the service will be provided;
 - (2) Any historical rate information regarding previous rates established for the program or rates for similar programs or services if no rate exists;
 - (3) An explanation and an explanation of and citation to any Federal, State, and other regulations and standards that apply;

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- (4) The rate being proposed, a summary of the program and cost variables included in the rate, and a program and fiscal impact statement on the juvenile justice system;
- (5) The operational budget and narrative justification for each budget category, including the methodology and cost computations used to arrive at the proposed rate; and
- (6) An estimated total cost of the service.
- (d) If the Committee determines additional information is needed, the Chair may recess the meeting until later to allow interested parties or staff additional time to secure the information.
- (e) In making its recommendations, the Committee shall consider any relevant data consistent with applicable state plans, all relevant administrative rules, OJA policies and procedures, and statutory provisions.
- (f) Once the Committee establishes a recommendation, notification of the proposed rates and standards and any supporting documentation will be sent to the Office of Management and Enterprise Services (OMES). After OMES has approved the proposed rates and standards, they will be placed on the next Board agenda for a public hearing to set the rate.

377:1-3-29. Board meeting in which the Board may vote for a fixed rate

- (a) Any comments from OMES, whether made in person or in writing, are included in the minutes of the Board meeting.
- (b) During the Board meeting, the Chair of the Rates and Standards Committee, or a designee, shall present the proposed rate and provide the Committee's recommendation to the Board.
- (c) Interested parties shall be given the opportunity for public comments regarding the proposed rates. The Board may vote to approve, deny, or modify the recommendation of the Rates and Standards Committee.

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CHAPTER 3. ADMINISTRATIVE SERVICES

SUBCHAPTER 1. OFFICE OF THE EXECUTIVE DIRECTOR

PART 3. OFFICE OF THE ADVOCATE GENERAL

377:3-1-20. Legal base and authority basis

The State's legal basis and authority for the rules and procedure in this subchapter are found in 10A O.S., §§ 1-2-101, 1-2-102, 2-7-302, and 2-7-603.

377:3-1-21. Definitions

The following words and terms, when used in this Subchapter, have the following meaning, unless the context clearly indicates otherwise:

- "Abuse" is defined in Title 10A O.S., § 1-1-105, for purposes of this subchapter abuse includes sexual harassment.
- "Advocate defender" means the institutional staff member responsible for:
 - (A) assuring that juveniles in custody have available and understand the grievance processehannels;
 - (B) other duties as assigned by the Executive Director or policy; monitoring and reviewing grievance procedures;
 - (C) conducting the tentative release date hearings with juveniles and attending parole hearings;
 - (D) supervising the communication of grievance procedure to staff and juveniles;
 - (E) facilitating resolutions and regularly reviewing informal grievances;
 - (C)(F) ensuring allegations of abuse and neglect are properly reported to the Advocate General of the Office Of Juvenile Affairs; and
 - (D)(G) ensuring that allegations of caretaker misconduct by a person responsible for a child residing in an OJA secure facility not rising to the level of abuse or neglect are reported to the Advocate General of the Office of Juvenile Affairs.
- "Caretaker" with regard to juveniles in the Office of Juvenile Affairs' custody means an agent or employee of a public or private institution or a public or private residential home above the level of foster care.
 - "Caretaker Misconduct" is defined in Department of Human Services' Rule OAC:340:2-3-2.
 - "Grievance coordinator" means a group home staff member responsible for:
 - (A) assuring that juveniles in custody have available and understand grievance channels;
 - (B) monitoring and reviewing grievance procedures and hearings;
 - (C) supervising the communication of grievance procedure to staff and juveniles; and
 - (D) regularly reviewing informal grievances and resolutions.
 - "Neglect" is defined in Title 10A O.S., § 1-1-105.
 - "Sexual harassment" as used in this subchapter is defined in 28 C.F.R. § 115.6.

377:3-1-23. Job duties

The job duties of the Advocate General (AG) are provided in (1)- (11) of this Section.

- (1) The AG shall supervise staff assigned to secure juvenile facilities as advocate defenders.
- (2) The AG shall inquire into and make recommendations to the appropriate Division Director regarding juvenile-related grievances which are not resolved at the facility level.
- (3) The AG shall monitor the system to ensure that allegations of abuse or neglect of a child who is in OJA custody and placed in a facility operated by or under contract with OJA are reported as provided by law.
- (4) The AG shall coordinate any hearings or meetings of administrative review committees conducted as a result of investigations or unresolved grievances.
- (5) The AG shall make recommendations to the OJA Executive Director and appropriate Division Director pursuant to 377:3-1-25;
- (6) The AG shall provide <u>quarterly</u> reports on grievance procedures, hearings, and investigations to the Executive Director of OJA, the Board of Juvenile Affairs, and to other persons or entities as necessary to facilitate system responsiveness.
- (7) The AG shall forward an abstract of grievances which are not resolved in favor of the person filing the grievance, and which have exhausted all available levels of appeal, to the Office of Juvenile System Oversight, the Executive Director, and the OJA Board of Juvenile Affairs.
- (8) The AG shall:
 - (A) monitor rules and practices of OJA and its contractors to ensure compliance with juveniles' rights;
 - (B) report the number and types of investigations at juvenile facilities at least quarterly to the OJA Board of Juvenile Affairs in open meeting; and

1/6

- (C) make additional reports to the OJA Board of Juvenile Affairs as needed.
- (9) The AG shall perform other duties as required by the Executive Director.

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- (10) In cooperation with the Executive Director, the Advocate General shall establish a system for review of allegations of caretaker misconduct by a person responsible for a child residing in an OJA secure facility not rising to the level of abuse or neglect. Such system shall be approved by the Board of Juvenile Affairs.
- (11) The AG shall ensure that an appropriate training program in child abuse and neglect reporting for facility staff is developed by the Office of Juvenile Affairs.

377:3-1-24. Staff

In order to To assure that OJA and contract facility staff are aware of the rights of juveniles and the responsibilities of staff, the facility administrator or designee shall give each staff member a copy of the rules in this Part as part of a new staff member's orientation. The facility director shall ensureassure that each staff member receives an initial orientation on the rules in this Part within 30 days of employment and comprehensive training at least annually. The AGAdvocate General, or designee, along with the facility administrator, shall share the responsibility for training staff. The facility administrator or designee shall maintain a system to document compliance with the training requirement.

377:3-1-25. Abuse, neglect, and caretaker misconduct of a child in OJA custody and placed in a secure facility or other facility operated by or through contract with OJA

- (a) **Requirements for reporting incidents of abuse and neglect.** Section 1-2-101 of Title 10A of the Oklahoma Statutes, O.S., § 1-2-101 requires every person who, in good faith and exercising due care, has reason to believe that a child under the age of eighteen (18) is a victim of abuse or neglect to report the condition or incident to the appropriate office for investigation through the DHS statewide centralized hotline. For purposes of the reporting requirements for this subchapter, abuse is defined in Title 10A O.S.; § 1-1-105, and shall include sexual harassment. An employee who, in good faith and exercising due care, has reason to believe that a child is a victim of abuse or neglect shall make an immediate, verbal or email report, as required by 10A O.S.; § 1-2-101 and to their supervisor who shall ensure a report is made to the OJA Office of Advocate General, or as required by 10A O.S.; § 1-2-102 to the DHS hotline, when:
 - (1) the employee has reason to believe <u>asuch</u> child has been the victim of abuse or neglect;
 - (2) a child, parent, guardian, or other person makes an allegation of abuse or neglect of such child.
- (b) **Use of restraints and <u>use of physical</u> force.** Abuse and neglect does not include the use of restraints or <u>physical use of force</u> as authorized by law; <u>or</u> allowed by regulation or policy, and performed in such a manner as to be deemed acceptable by approved systems of restraint. <u>Approved systems of restraints</u> includeing, but <u>are not limited to, MANDT, CPI, CAPE, or CCMS.</u> Medical attention shall be provided immediately upon the juvenile's release from restraint as a result of physical force even if there is no visible evidence or complaint of injury. Medical attention shall be provided in an institution by a licensed physician, licensed practical nurse, registered nurse, physician's assistant, or emergency medical technician; or in a group-home or private facility, staff certified in first aid and CPR may provide medical attention and are responsible for referring the juvenile to licensed medical personnel, if warranted.
- (c) <u>Within 24-hours of a When a reportable situation</u>, arises and within 24-hours, each staff member, resident, or other person present during the incident shall prepare and submit to the facility administrator or designee, a written incident report describing what the person saw or heard. The facility administrator, shall ensure a preliminary assessment is conducted to:
 - (1) assure the safety of any juvenile named in the referral and of other juveniles in the same placement;
 - (2) protect the integrity of any evidence which may be relevant to the allegation, including taking photos following every restraint or act of physical restraintuse of force; and,
 - (3) coordinate activities with OCA and any law enforcement authority involved in investigating the allegation.
- (d) The facility administrator shall collect medical records, other documents, and reports that which pertain to the alleged incident, written statements, and any other documentary evidence and place them in a holding file for investigative use by the appropriate investigative authority.
- (e) Caretaker misconduct in OJA secure facilities. Every employee in an OJA secure facility shall report allegations of caretaker misconduct to the OJA AGAdvocate General for investigation and disposition. The AG shall develop a The system for investigation and disposition of such investigation shall be developed by the Advocate General in cooperation with the Executive Director and shall be approved by the Board of Juvenile Affairs. The AGAdvocate General shall determine whether the allegation involves caretaker misconduct.
- (f) Caretaker misconduct in facilities other than OJA secure facilities. Every employee of a facility, other than an OJA secure facility, operated by or through <u>a</u> contract with OJA shall report allegations of caretaker misconduct in accordance with <u>OAC 310:678-3-2DHS Rule 340:2-3-33</u>.
- (g) **Educational employees.** If the alleged abuse, neglect, or caretaker misconduct involves an employee of a school district that which provides contract educational services to OJA or an OJA-contracted group home, either as a witness or as an accused caretaker, the facility administrator shall notify the principal of the school principal of the nature of the allegation, and name of the assigned investigator. The principal shall advise the employee accordingly then be responsible for advising the employee accordingly and coordinate coordinating with the appropriate investigative authority.
- (h) **Protection or medical treatment.** In the event of alleged abuse, neglect, or caretaker misconduct in a facility, the facility administrator or designee shall assure the protection of the juvenile and obtain medical attention for the juvenile.

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- (i) **Failure to report.** Any employee who fails to report abuse, neglect, or caretaker misconduct, as required by this Section, is subject to disciplinary action under OJA's personnel rules. If it is determined the employee failed to report as required, the Advocate General of OJAAG shall make a referral to the appropriate law enforcement agency as provided by in Title 10A O.S.; § 1-2-101.
- (j) **Interference prohibition.** Any employee who interferes with an abuse, neglect, or caretaker misconduct investigation, or attempts to intimidate or harass a witness, victim, or employee accused of alleged abuse, neglect, or caretaker misconduct through force or fear, or by threatening physical or mental harm to a witness, victim or others, is subject to disciplinary action under OJA's personnel policy and could be subject to criminal prosecution.
- (k) **Contract termination.** A contractor's contract shall be subject to immediate termination for failure to adhere to this subchapter or knowingly allowing an employee to:
 - (1) interfere with an abuse, neglect, or caretaker misconduct investigation;
 - (2) interfere or retaliate against any employee for reporting or cooperating in such investigation; or
 - (3) deny the assigned investigator immediate and direct access to the contractor's employees, facilities, clients, places, or records of any type.
- (l) **Retaliation.** The agency shall ensure <u>the protection</u> of both staff and juveniles who report sexual abuse or sexual harassment or for cooperating in sexual abuse or sexual harassment investigations from retaliation.

377:3-1-26. Advocate General procedures during an abuse, neglect, or caretaker misconduct investigation for other than OJA secure institutions

- (a) Upon receiving a <u>screened-out</u> report from OCA or <u>DHS</u> concerning an investigation of abuse, neglect, or caretaker misconduct, the <u>AGAdvocate General</u> shall send a copy of the report to the facility administrator <u>and notify the appropriate OJA staff. Executive Director or appropriate Division Director.</u> If a facility administrator is named as an accused caretaker in the allegation, the report shall be forwarded to <u>the facility owner</u>, the Chair of the <u>facility's</u> Board of Directors of the facility or to the Director of the state agency operating the facility.
- (b) If OCA confirms findings of abuse, neglect, or caretaker misconduct, the Advocate General shall request appropriate corrective action within 21 days of the <u>AG'sAdvocate General's</u> receipt of OCA's report.
- (c) Even if abuse, neglect, or caretaker misconduct is not confirmed by OCA, the The AG Advocate General may recommend appropriate measures to the Executive Director appropriate measures to address systemic or individual concerns raised during the course of the OCA investigation.
- (d) Upon receipt of OCA's report, the facility administrator, OJA administration, or <u>AGAdvocate General</u> on behalf of a juvenile who is the subject of the report may request that the DHS Grievance Abuse Review Committee (GARC) review its findings and return a different result.
- (e) OCA investigative reports, records, files, and audio tapes are considered confidential under Title 10A O.S.; § 1-6-102. See OAC 310:678-7-1.

377:3-1-27. OJA grievance policy

- (a) It is OJA's intent to establish and maintain a fair, simple, and speedy system for <u>the</u> resolution of grievances of all OJA-custody juveniles. The grievance policy and procedure is designed to provide an OJA-custody juvenile with a way to have another person review and, when appropriate, correct problems the juvenile is having. <u>Any grievance regarding allegations of abuse, including</u> sexual abuse and sexual harassment, or neglect, shall be forwarded to the DHS hotline.
- (b) A juvenile, or another person on behalf of a juvenile, may file a grievance regarding:
 - (1) the conditions of confinement, action of staff, and incidents occurring within or under the authority and control of <u>OJA</u>, <u>and</u>the <u>Office of Juvenile Affairs</u>.
 - (2) any decision, behavior, or action by an OJA employee or contractor, or by another juvenile in OJA custody. Any grievance regarding allegations of abuse, including sexual abuse and sexual harassment, or neglect, shall be forwarded to the DHS hotline.
- (c) A grievance may be filed by either a juvenile or by another person on behalf of the juvenile. The juvenile or person filing on behalf of the juvenile shall try to resolve the grievance informally at the local level before he or she submits a formal appeal. The procedures for informally resolving grievances with JSU and in institutions and contract facilities are set forth in OAC 377:3-1-28. If <u>a</u> resolution cannot be achieved through the informal process, the juvenile
- hashttp://hscabreq.oja.ok.gov/hhstravelrequest/views/landing.htmls the right to appeal.
- (d) Staff members shall not in any way discourage any juvenile from filing a grievance or appealing a grievance resolution. The rules in this Section shall not be construed to impinge upon hinder the duties of the Advocate General, Advocate Defender, grievance coordinator, or any designee thereof from fairly and accurately advising a juvenile of his or her rights or alternative means of dispute resolution.
- (e) OJA ensures the quality of the system by maintaining minimuma system of standards and by using an ongoing monitoring program carried out by the Office of Advocate General in conjunction with other OJA Divisions.
- (f) Each OJA and contracted facility shall make its grievance policies and procedures available upon request to any member of the public.
- (g) Each OJA and contracted facility shall post its grievance policies in conspicuous places readily accessible to the juveniles in residence.

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- (h) Each OJA and contracted facility shall explain OJA grievance policies and procedures to every resident during intake at the facility.
- (i) Every effort should be made to utilize the correct form, but all grievances must be processed regardless of the form used by the juvenile.
- (j) The secure facility shall permit a juvenile to report sexual abuse or sexual harassment to DHS via the hotline.

377:3-1-28. General Grievance Procedure

(a) Informal grievances.

- (1) Informal grievances are issues relating to daily life at the juvenile's placement, which can be resolved at the facility or local level. Informal grievances include, but are not limited to:
 - (A) grooming and hygiene;
 - (B) clothing;
 - (C) facility cottage cleanliness;
 - (D) food;
 - (E) disrespect not involving threats of harm;
 - (F) restrictions; or
 - (G) routine problems with the JSU, ; i.e., for example complaints against a JSU worker.
- (2) A juvenile shall try to informally resolve his or her grievance by talking with the Advocate Defender, supervising employee, or other appropriate staff, excluding a staff member who is the subject of the grievance, within three (3) working days, excluding weekends and holidays, of the incident. If the issue is not resolved the juvenile may submit in writing a brief description of the problem and what efforts have been made to resolve the issue within (7) seven working days, excluding weekend and holidays, of the incident. The grievance should include the name of the person or group with whom the juvenile wants to meet to discuss the problem. The juvenile may put the written information in a designated grievance box or give the grievance to any staff member.
- (3) The grievance must be numbered and logged in a grievance log on the day the grievance is received and distributed to the appropriate staff, excluding a staff member who is the subject of the grievance, for processing and possible resolution.
- (4) The assigned staff shall review each grievance and attempt to resolve the grievance with the juvenile.
- (5) If the grievance is not resolved within (5) five working days (excluding weekends and holidays), the juvenile may seek review by the supervisor.
- (6) The supervisor shall have (10) ten working days (excluding weekends and holidays) from receipt of the review to resolve the grievance.
- (7) If the juvenile does not accept the resolution of the supervisory review, he/she may file a formal grievance, which shall be received within 5 working days (excluding weekends and holidays) from the receipt of the review.
- (8) The grievance log must also indicate the disposition of the grievance and the date of the resolution or the review. OJA Form OJA-AG-2 may be used to facilitate the grievance resolution process.

(b) Formal Grievances

- (1) Formal grievances are those grievances, which are appeals of informal grievances or those which cannot otherwise be resolved at the facility or local level. Issues which cannot be resolved at the facility or local level include, but are not limited to:
 - (A) placement;
 - (B) treatment;
 - (C) psychological services;
 - (D) social services;
 - (E) educational services;
 - (F) recreation; or
 - (G) abuse, neglect, or caretaker misconduct.
- (2) Grievances which contain allegations of abuse, neglect, or caretaker misconduct shall be processed in accordance with 377:3-1-25 and 377:3-1-26.
- (3) Formal grievances may be filed with any staff member, excluding a staff member who is the subject of the grievance, but shall be routed to the Advocate General for appropriate distribution and resolution by OJA State Office as set forth in paragraph (c) of this section. Form OJA-AG-3 may be used to facilitate the formal grievance process.
- (c) **Emergency Grievances.** Any situation where the juvenile believes that he or she is subject to substantial risk of imminent sexual abuse, may file a grievance as an emergency grievance. Immediately upon the discovery that an emergency grievance has been filed, the emergency grievance shall be forwarded to the superintendent or designee, who may take corrective action within 48 hours.
- (d) **Grievances received by Advocate General.** Upon receipt of an appeal of an informal grievance or formal grievance, the Advocate General's Office shall post the date of receipt. The Advocate General shall review the grievance and the accompanying documentation to determine what additional information is necessary for disposition of the grievance within five (5) working days and set deadlines for receipt of required information. If the Advocate General finds that an appeal or formal grievance was prematurely filed, the Advocate General shall send a reply containing suggestions regarding the proper procedure to the person that sent the grievance. The Advocate General shall review the applicable OJA rules, policy, and/or Oklahoma law to determine if the appeal or formal grievance is appropriate and provide an opinion regarding possible resolution.

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- (e) Appeal to the Division Director/final decision. The Advocate General shall prepare a cover worksheet or memorandum for the appeal or formal grievance and forward a copy to the Division Director/designee for response. The response shall be completed within ten (10) working days (extension may be granted by the Advocate General where a formal, legal opinion or policy decision is necessary). Upon receipt of the proposed resolution, the Advocate General shall forward a copy to the juvenile and/or to other appropriate person named in the grievance and to the appropriate advocate defender or grievance coordinator. A copy of the resolution shall be inserted in the juvenile's master file. Resolutions, which will change or create OJA rules, are submitted to the appropriate division responsible for drafting new or revised rules. The Advocate General shall ensure that resolutions containing directives for specific action are completed.
- (f) **Board notification.** All matters referred to the Division Director for final decision may be placed on the agenda for the next, regularly scheduled meeting of the Board of Juvenile Affairs upon authorization of the Executive Director. If the Executive Director denies the request the OJA Board shall be informed. The Executive Director shall review any such grievance with the Board during Executive Session. At that time, the Advocate General will be allowed to voice concerns, the wishes of the juvenile, or such other matters as are relevant to the Board's understanding of the issues presented in the appeal.
- (g) **Review by juvenile.** The grievance coordinator, Advocate Defender, or Advocate General (whoever filed the last grievance), shall review the Division Director's resolution with the juvenile and notify the juvenile that his or her administrative remedies have been exhausted. If the juvenile does not accept the resolution, a copy of the grievance, appeals, and proposed resolutions shall be forwarded to the Office of Juvenile Systems Oversight.
- (h) Grievances originated by the Advocate General. The Advocate General may, on behalf of all or part of the juveniles committed to OJA, originate a grievance at the State Office level concerning:
 - (1) the substance or application of any written or unwritten policy, rule, or regulation of:
 - (A) OJA;
 - (B) an agent of OJA; or
 - (C) an OJA contractor; or
 - (2) any decision, behavior, or action of
 - (A) an OJA employee;
 - (B) an agent of OJA;
 - (C) an OJA-contractor; or
 - (D) any other person committed to OJA.
- (i) The Advocate General may write the grievance by way of a detailed memorandum.
- (h)(j) The appropriate Division Director and Advocate General may determine there is misuse of the grievance process. Types of misuse; include, but are not limited to:
 - (1) Grievances intended to harass another;
 - (2) The continual and repeated submitting of frivolous grievances (frivolous grievances are those with no basis in fact or law);
 - (3) The repeated submitting of grievances about an issue, which has been adequately and completely addressed by staff.

If misuse of the process is determined, the juvenile will be notified in writing, which shall include the above-listed reason(s)citing the above listed reason or reasons the grievance will not be processed through the grievance procedure. A copy Copies of the determination willmust be placed in the juvenile's offender's field file, and Advocate General's and Advocate Defender's file. The agency may discipline a resident for filing a grievance related to alleged sexual abuse only where the agency demonstrates that the resident filed the grievance in bad faith.

- (i)(k) Non-grievable issues include;
 - (1) any appeals finalized and resolved by the disciplinary hearing process shall not be processed through the grievance process, or
 - (2) Requests for disciplinary action against staff.
- (j)(1) At any level of the administrative process, including the final level, if the juvenile does not receive a response within the time allotted for reply, including any properly noticed extension, the juvenile may consider the absence of a response to be a denial at that level.

377:3-1-31. Monitoring and evaluation

The purpose of this section is to describe the process by which the Advocate General monitors and evaluates group home and institutional grievance systems.

- (1) The grievance coordinator or advocate defender may request a personal visit with the Advocate General <u>as needed</u> on an <u>as-needed basis</u>.
- (2) If the grievance coordinator or advocate defender becomes aware of any program deficiencies or service program omissions that which result in individual group home or community-based problems, the grievance coordinator or advocate defender shall write a special report to the Office of the Advocate General about the program deficiencies or omissions. The grievance coordinator or advocate defender shall write the special report even when a grievance has not been filed. The grievance coordinator or advocate defender shall send copies of the report to the group home supervisor and the affected Division Director. The grievance coordinator or advocate defender shall maintain the master grievance log and grievance files and shall report grievance statistical information to the Office of Advocate General monthly.

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(3) The grievance coordinator or advocate defender shall maintain the master grievance log and grievance files and shall report grievance statistical information to the Office of Advocate General monthly.

377:3-1-32. Notice to the Executive Director [REVOKED]

The Advocate General shall <u>notify</u>keep the Executive Director timely and closely advised of any action taken by or initiated at the request of the Advocate General. The Advocate General shall forward copies of all reports, memoranda, or correspondence to the Executive Director which is originated by or at the request of the Advocate General. The Advocate General shall also meet with the Executive Director when necessary <u>to brief</u>for the purpose of briefing the Executive Director regarding concerns, issues, or observations noted by the Advocate General in the performance of his or her duties.

377:3-1-33. Coordination with other OJA divisions [REVOKED]

- In carrying out his or her duties, the Advocate General shall coordinate his or her activities with the Agency divisions by:
 - (1) gathering information and observations needed for oversight activity;
 - (2) producing and distributing reports documenting findings of visits including identifying areas of noncompliance; and
 - (3) communicating and coordinating to improve planning, programs, and policy based upon information and findings resulting from monitoring activities.

377:3-1-34. Coordination with other monitoring entities [REVOKED]

(a) The Advocate General shall coordinate with the Department of Human Services' Office of Client Advocacy, the Oklahoma Commission on Children and Youth's Office of Juvenile System Oversight, or such other government entities which possesses overlapping or concurrent jurisdiction of OJA juveniles or placements, in conducting the Advocate General's activities. The Advocate General shall perform the following functions with these entities:

- (1) communicate and coordinate, whenever possible, the scheduling of on-site visits to programs and facilities to control disruptions of operations by monitoring entities;
- (2) compare and consolidate program information and data needed to minimize duplicate requests;
- (3) provide copies of Advocate General reports or grievances when requested;
- (4) meet with staff to discuss issues that are of common concern to all offices; and
- (5) receive reports from said agencies which raise issues of concern affecting OJA juveniles or policy.

(b) Title 21 O.S., § 870 requires every person having reason to believe that a person or child-placing agency is engaging in the crime of trafficking in children to make an immediate report to the Oklahoma Bureau of Narcotics and Dangerous Drugs Control. An employee who, in good faith and exercising due care, has reason to believe that a person or child-placing agency is engaging in the crime of trafficking in children shall make an immediate report, as required by 21 O.S., § 870 and to the OJA Office of Advocate General when:

- (1) the employee has reason to believe that such crime has been committed, or
- (2) a child, parent, guardian, or other person makes an allegation of such crime.

377:3-1-35. Conflict of interest [REVOKED]

If the Advocate General determines that a conflict of interest may affect his or her ability to proceed in a certain matter, he or she shall immediately refer the case to the Executive Director for appropriate action which may include referral to the Advocate General of the Department of Human Services.

377:3-1-36. Mandatory annual review of rules [REVOKED]

Rules for the Office of the Advocate General shall be reviewed annually by the Advocate General and appropriate staff. The Advocate General shall present recommendations for approval of any rule modification, amendment, or deletion to Board of Juvenile Affairs no later than the December Board meeting of each successive year.

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11/26/24, 11:24 AM Draft - Ch 3 SubCh 3 & 5

CHAPTER 3. ADMINISTRATIVE SERVICES

SUBCHAPTER 3. OFFICE OF GENERAL COUNSEL SERVICES

PART 1. GENERAL PROVISIONS

377:3-3-1. Purpose [REVOKED]

The purpose of this Subchapter is to describe the functions and responsibilities of the Office of General Counsel Services.

377:3-3-2. Legal base [REVOKED]

The statutory authorization for the Office of General Counsel Services is found in 10A O.S., § 2-7-201(D).

377:3-3-3. Duties and responsibilities [REVOKED]

The Office of General Counsel Services provides legal services to the Office of Juvenile Affairs (OJA), and members of the Board of Juvenile Affairs acting in the scope of their official capacities, the Executive Director of the Office of Juvenile Affairs (OJA), the Chief of Staff of OJA, and all other OJA employees acting in the course or scope of their employment.

SUBCHAPTER 5. OFFICE OF HUMAN RESOURCES MANAGEMENT

PART 1. OVERVIEW OF THE OFFICE OF HUMAN RESOURCES MANAGEMENT

377:3-5-1. Purpose [REVOKED]

- (a) The purpose of this subchapter is to set forth the rules governing the operation of the Office of Human Resources Management. The rules in this Chapter are authorized by the authority of the Office of Juvenile Affairs as set forth in Title 10A O.S., § 2-7-101(I) (2), Oklahoma Personnel Act, 74 O.S., § 840-1.1 et seq., and Oklahoma State Merit Rules.
- (b) The purpose of the Office of Human Resources Management (OHRM) is to provide comprehensive human resource management and development programs which support the achievement of the agency's mission, values, and goals. The Office of Human Resources Management programs focus on recruiting, retaining, and developing qualified agency staff.

377:3-5-2. Duties & Responsibilities of the office of Human Resources Management [REVOKED]

Office of Human Resources Management shall insure that OJA follows all State and Federal Laws governing Human Resources Management of State Agencies. OHRM shall follow all rules as outlined by Title 74 O.S. § 840.1.1 et seq. Oklahoma Personnel Act; Oklahoma Administrative Code Title 455 Merit Protection Commission, Chapter 10; and Title 530 Office of Personnel Management, Chapter 10.

PART 3. OFFICE OF HUMAN RESOURCES MANAGEMENT- PERSONNEL PROGRAMS

377:3-5-12. The Office Of Juvenile Affairs promotional plan [REVOKED]

- (a) Promotional policy. The Office of Personnel Management (OPM) requires that each state agency shall post vacancies in a particular job family in accordance with a promotional plan filed by the agency with OPM (530:10-11-51). The Office of Juvenile Affairs (OJA) shall follow this plan when posting and filling classified positions. The OJA promotional plan is designed to provide employees with opportunities for career growth and advancement. No person shall be discriminated against because of race, sex, age, color, creed, religion, political affiliation, national origin, or disability [74 O.S. §840-2.9(A)].
- (b) **Posting decision.** The Executive Director or designee shall make the decision to fill a vacancy, whether classified or unclassified, and post a notice. When continuous, multiple vacancies are anticipated, general promotional opportunities may be posted. [74 O.S. §840- 4.15(B)].
- (c) Agency Selection Process. The Office of Juvenile Affairs shall conduct the selection process of applicants in accordance with (OPM) requirements, state and federal laws. Applicants may be required to participate in other selection and assessment procedures.
 - (1) A personal background investigation shall be conducted, which may include civilian and military court records. Background investigations will be conducted in compliance with Title 10 O.S. §404.1A.
 - (2) Applicant drug testing may be required in accordance with 377:3-11-1 though 377:3-11-12.

377:3-5-13. Office of Juvenile Affairs Services Fair Labor Standards Act [REVOKED]

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CHAPTER 3. ADMINISTRATIVE SERVICES

SUBCHAPTER 7. FINANCE DEPARTMENT

377:3-7-1. Legal basis and purpose

- (a) The Office of Juvenile Affairs (OJA) Finance Division is designated by OJA to conduct OJA's financial matters. OJA shall follow:
 - (1) Oklahoma state statutes;
 - (2) procedures of the Office of Management and Enterprise Services;
 - (3) procedures of the Office of State Treasurer;
 - (4) procedures from federal grantor agencies; and
 - (5) generally accepted accounting principles.
- (b) <u>Section 2-7-304 of Title 10A</u> of the Oklahoma Statutes, O.S., § 2-7-304, authorizes the OJA to enter into financial agreements with governmental entities or private agencies for juvenile delinquency prevention and treatment programs.
- (c) The purpose of this subchapter is to set forth rules for the Office of Juvenile Affairs' (OJA) Finance Division.
 - (1) The OJA Finance Division shall properly manage the OJA annual budgeting process and account for OJA funds and other assets, including facilities and materials, in accordance with state laws and procedures.
 - (2) The OJA Finance Division shall manage the OJA budgeting process.

377:3-7-2. Purpose [REVOKED]

The purpose of this subchapter is to set forth rules for the Office of Juvenile Affairs' (OJA) Finance Division.

- (1) The OJA Finance Division shall properly manage the OJA annual budgeting process and account for OJA funds and other assets, including facilities and materials, in accordance with state laws and procedures.
- (2) The OJA Finance Division shall manage the OJA budgeting process.

377:3-7-3. Regulatory authority [REVOKED]

The Office of Juvenile Affairs shall follow:

- (1) Oklahoma state statutes;
- (2) procedures of the Office of Management and Enterprise Services;
- (3) procedures of the Office of State Treasurer;
- (4) procedures from federal grantor agencies; and
- (5) generally accepted accounting principles.

377:3-7-4. OJA financial system [REVOKED]

The financial system established and maintained by the Office of Juvenile Affairs shall comply with state statutes and guidelines or requirements established by the Office of Management and Enterprise Services, State Treasurer, State Auditor and Inspector, and federal grantor agencies. Changes to OJA procedures related to financial matters shall be provided to the Finance Subcommittee of the Board of Juvenile Affairs for review, and then subsequently to the full Board of Juvenile Affairs.

SUBCHAPTER 9. OFFICE OF POLICY

PART 7. POLICY AND ACCREDITATION

377:3-9-40. Legal basis

The Board of Juvenile Affairs, pursuant to 10A O.S. § 2-7-101-(F)(2), shall be the rulemaking body for OJA. OJA shall follow the rulemaking requirements in accordance with pursuant to the Oklahoma Administrative Procedures Act (APA);. See Title 75 O.S. § 250 et seq. The General Counsel, designee, manages OJA's rules and procedures; serving as a link between the program, administrative, and legal functions of OJA and OJA's rules and policies. Public hearings will be held in accordance with 75 O.S. § 303(C).

377:3-9-41. Purpose [REVOKED]

The General Counsel, designee, manages OJA's rules and procedures; serving as a link between the program, administrative, and legal functions of OJA and OJA's rules and policies.

377:3-9-42. Public hearings [REVOKED]

Public hearings will be held in accordance with 75 O.S. § 303(C).

377:3-9-43. Availability of OJA rules, policies, and procedures

In accordance with the Open Records Act, 51 O.S. § 24A.1 *et seq.*, all OJA rules, policies, and procedures are available upon request. Requests should be submitted by letter to the Office of Juvenile Affairs, Attention: General Counsel, 3812 North Santa Fe Avenue, Suite 400, Oklahoma City, OK 73118, by telephone call 405-530-2800 and ask to speak with the General Counsel, or via email at records@oja.ok.gov.

377:3-9-44. Petitions for the promulgation, amendment, or repeal of rules

- (a) **Submission.** Any person may petition OJA requesting the promulgation, amendment, or repeal of a rule. The person making the request shall submit via email to records@oja.ok.gova petition to the Office of Juvenile Affairs, by mailing or delivering the petition to the Office of Juvenile Affairs, Attention: General Counsel, 3812 North Santa Fe Avenue, Suite 400, Oklahoma City, OK 73118. A petition mailed to OJA is considered submitted upon receipt by the General Counsel. A designated staff member shall stamp the petition upon receipt to show the date of submission.
- (b) **Form.** The petitioner shall submit the petition in the form given in paragraphs 1 5 below.
 - (1) The petition must contain a clear statement of the action requested and the solution desired as a result of the request.
 - (2) When the petition seeks to amend or repeal an existing rule, the existing rule must be identified in the petition in the following format OAC Title: Chapter-Subchapter-Part. If the petition is submitted electronically, please hyperlink the current rule in the petition. If the petition is submitted via mail, please include a copy of the current rule.
 - (3) The petition must contain a statement of the facts supporting the requested rule or rule change, including any legal grounds, if known, and other relevant information or views on which the petitioner relies. A copy of any reference or source cited in the statement must be submitted or hyperlinked with the petition unless the reference or source is readily available to OJA. When a petition requests more than one rule change, a single statement that which supports and justifies each proposed change meets the requirements of this subsection.
 - (4) The petition must describe, if known, who most likely will be affected by the proposed change.
 - (5) The petition must be signed by the petitioner or his/her authorized representative, and contain the printed name, address, email, and day-time telephone number of the petitioner or his/her authorized representative.
 - (6) A petitioner may supplement or revise a petition at any time <u>before</u> approval by the Executive Director or submission of the proposed change to the Board. However, if significant changes are made, the petitioner should withdraw the petition and submit a revised petition.
- (c) **Notification of receipt.** The General Counsel, or designee, shall <u>notifysend</u> the petitioner notification of receipt of the petition within five (5) working days after receipt.
- (d) Consideration and disposition. In accordance with 75 O.S. § 305, if rulemaking action has not occurred by the 30th day after receipt of the petition, the petition shall be deemed denied. Within fourteen (14) calendar days after the submission of the petition, the General Counsel, or designee, shall review the request and recommend the Executive Director:
 - (1) approve the petition for Board action;
 - (2) deny the petition, in whole or in part, on any of the following grounds:
 - (A) the petition requests promulgation of a rule that OJA clearly lacks authority to promulgate;
 - (B) the petition requests a rule or rule change inconsistent with any applicable statutory or constitutional authority;
 - (C) the petition requests promulgation, amendment, or repeal of an OJA policy that does not constitute a rule as defined in the Oklahoma Administrative Procedures Act;
 - (D) the petition is frivolous and not pursued in good faith; or
 - (E) the petition is not feasible, taking into consideration available and anticipated agency resources for the category of the subject matter of the proposed change and the public policy or other grounds supporting the proposed change; or
 - (F) for other just cause; or
 - (3) request additional material from the petitioner.
- (e) **Executive Director responsibilities.** The Executive Director, or designee, shall send the recommendation and other pertinent material to each member of the Board within two (2) calendar days of decision.
 - (1) If the next regularly scheduled Board meeting falls within twenty (20) calendar days of receipt of the petition, the Executive Director, or designee, shall ensure that the petition is placed as an action item on the agenda of the Board's next regularly scheduled meeting.
 - (2) If the next regularly scheduled Board meeting does not fall within thirty (30) calendar days of receipt of the petition, the Executive Director, or designee, shall notify the Board. The Board may chooseto call a Special meeting, in accordance with OAC 377:1-1-5(b) within the thirty (30) day time period to consider the petition.
- (f) Responsibilities of the Board of Juvenile Affairs. The Board shall decide whether to approve or deny the petition.
- (g) **Notification of approval or denial of petition.** The General Counsel, or designee, shall notify the petitioner of the decision to approve or deny the petition within thirty (30) days of receipt of the petition.
- (h) **Rulemaking process.** If the Board approves the petition, the General Counsel, or designee, shall initiate OJA's rulemaking process.
- (i) **Notice to petitioner.** If the petitioner does not attend the Board meeting in which the vote on the rule revision is made, the General Counsel, or designee, shall provide written notice within five (5) working days after the Board's meeting of the Board's

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CHAPTER 3. ADMINISTRATIVE SERVICES

SUBCHAPTER 13. OFFICE OF PUBLIC INTEGRITY

PART 1. GENERAL PROVISIONS

377:3-13-1. General purpose, legal basis, and authority

- (a) Purpose. The Office of Public Integrity (OPI) division within OJA is directly responsible, organizationally and administratively, to conduct investigations, performs on-site assessments; and licensing visits, and financially monitors OJA state contracts, functions, and activities to ensure compliance with; state statutes, OJA policies and procedures, contractual provisions, and other applicable professional rules and standards. The division OPI is composed of three divisions sections: (1) Internal Affairs/Employment Discrimination Investigations; (2) Licensing and Programs Assessment Section; and (3) Financial Contract Monitoring and Reviews Section; each section is under the supervision of the Executive Director, or designee..
 - (1) Internal Affairs/EEO Investigations division may among other activities and functions include investigations of:
 - (A) Criminal investigations;
 - (<u>B</u>) Allegations of serious misconduct and/or criminal violations committed by OJA personnel as assigned to the division by the Executive Director, or designee;
 - (C)(B) Allegations of discrimination (Equal Employment Opportunity) either by or against OJA employees as received and assigned by the affirmative action officer, or the agency's grievance manager, Executive Director, or designee; and
 - (<u>D</u>)(<u>C</u>) Specifically assigned Caretaker Conduct Reviews (CCR) that are returned to the OJA_operated juvenile institutions by the Oklahoma Department of Human Services' Office of Client Advocacy (OCA) or other entity as prescribed by law for administrative review, as well as major incidents (i.e. serious assaults, riots, escapes) that occur at OJA operated institutions.
 - (2) Licensing and Programs Assessment division includes the licensing and/or assessing of the following:
 - (A) On-site licensing and unannounced monitoring visits to OJA state_contracted juvenile detention centers, community intervention centers (CIC) and municipal juvenile detention facilities, See OAC 377-3-13-6; OJA state-contracted juvenile detention centers, community intervention centers (CIC) and municipal juvenile detention facilities. See OAC 377:3-13-6;
 - (B) Announced and unannounced assessments of contracted residential care, non-residential services and shelters as directed by the Executive Director, or designee.
 - <u>Contracted residential care, non-residential services, and shelters, as directed by the Executive Director or designee;</u>
 - (C) On-site assessments and licensing of a Secure Juvenile Facility Secure Juvenile Facilities;
 - (D) On-site or electronic assessments of the Juvenile Services Unit (JSU) offices located throughout the state; (D)(E) Assessments of State Office units as directed by the Executive Director, or designee The Juvenile Services Unit (JSU); and,
 - (E) State Office units as directed by the Executive Director or designee.
 - (3) Financial Contract Monitoring/Review division includes but is not limited to the financial monitoring of the following:
 - (A) Secure Juvenile Facilities;
 - (B) OJA contracted detention centers and community intervention centers;
 - (C) OJA contracted residential care and shelter services as directed by the Executive Director, or designee;
 - (D) OJA contracted non-residential services provided by designated youth services agencies; by performing
 - (i) On-site contractor visits to reconcile claims against supporting documentation with a documented recommended corrective action, if appropriate;
 - (ii) Reviews of reimbursed claims for payment by OJA, to include: compliance with contract requirements; applicable laws, rules and regulations; and adequate supporting documentation.
 - (E) In addition to the above duties, the financial contract monitoring/review section shall perform in-depth financial audits as directed by the Executive Director, or designee.
- (b) **Legal Basis/Authority.** Authorization for the monitoring/assessment functions is found in 10A O.S. § 2-7-301(E)(1)(c). Authorization for detention certification is found in 10A O.S. § 2-3-103(C)(1). Authorization for certification of community intervention centers (CIC) is found in 10A O.S. § 2-7-305(D)(1).
- (c) **Unit Independence.** Communication and coordination with agency and contractor personnel is necessary and desirable during the investigative, assessment, and monitoring procedures.
- (d) Frequency of Assessments/Monitoring.
 - (1) Announced certification assessments of contracted facilities, i.e. detention centers and community intervention centers, and municipal juvenile detention facilities shall occur on a bi-annual basis, with announced annual inspections during the interim year. Unannounced assessments shall occur at the direction of the division supervisor or Executive Director.

Announced assessments of JSU in each county of the state shall occur on a bi-annual basis and unannounced assessments

about:blank 1/13

as requested by the Juvenile Services Division Director with approval of the Executive Director, or designee. Program aAssessments of OJA institutions, State Office units, contracted residential care facilities, non-residential services and shelters as directed by the Executive Director, or designee.

(2) OJA contracts with the youth services agencies shall be monitored at a minimum of twice per fiscal year. Other contracted facilities and services, OJA institutions, <u>JSU</u>, and State Office units shall be monitored at the direction of the Executive Director.

377:3-13-2. Internal affairs investigations

- (a) The Internal Affairs/EEO Investigations division is responsible for conducting internal investigations of agency personnel who have been accused of serious misconduct and/or criminal behavior while on or off duty. Serious misconduct is defined as any violation of laws, policies, rules, or procedures that, if proven, could result in disciplinary actions of, suspension without pay, demotion, involuntary transfer, or termination of employment. The Internal Affairs/EEO Investigations division investigates only those internal misconduct allegation cases that have been assigned by the OJA Executive Director, or designee.
- (b) The Internal Affairs/EEO Investigations division is also responsible for conducting Equal Employment Opportunity (EEO) (discrimination) investigations as a result of complaints/grievances filed by OJA employees and/or clients. The Executive Director, or designee; grievance manager, or the affirmative action officer may assign EEO (discrimination) complaints or grievances to the Internal Affairs/EEO Investigations division for investigation.
- (c) The Internal Affairs/EEO Investigations division shall ensure there is a minimum of one state_certified EEO investigator on its staff to investigate EEO (discrimination) complaints or grievances. The EEO (discrimination) investigator(s) shall maintain state EEO investigator certification by attending the required number of hours of annual training as mandated by OAC 260-25-3-22 and 260-25-3-26.

PART 3. REQUIREMENTS FOR SECURE JUVENILE DETENTION CENTERS

377:3-13-43. Staff requirements

- (a) General provisions. The requirements for facility staff are set forth in this Section.
 - (1) **Personnel policy.** Every facility shall have written personnel policy which includes the maintenance of personnel records. The facility director shall make available to employees personnel policy and written job descriptions. The policy and job descriptions specify the person to whom the employee is responsible and the duties the employee is expected to perform.
 - (2) **Juveniles' tasks.** A juvenile in detention shall not be used as an employee. A juvenile in detention is permitted to perform tasks, if the tasks teach the juvenile responsibility and the juvenile is supervised. A juvenile shall be allowed to perform tasks (chores) in any area (restricted to the facility) in which adequate security exists. The facility administrator shall approve all work assignments.
 - (3) **Supervision.** Sufficient staff shall be available to provide continuous day and night supervision of the residents and protection of the facility as well as to allow staff relief from duty.
 - (4) **Auxiliary staff.** There shall be sufficient auxiliary staff to maintain adequate support services. Auxiliary staff are all staff that are not direct-care staff.
 - (5) **Health requirements.** Staff health requirements are given in (A)-(B) of this paragraph.
 - (A) Each person employed must be physically fit and able to perform all job functions necessary to ensure the health, safety and well-being of the juveniles in their care. A physical examination by a licensed physician may be requested should the employee's ability to perform their mandatory job functions be in question.
 - (B) Testing for tuberculosis is not required on a routine basis. Tuberculin skin testing shall be required when there is a local identified tuberculin exposure identified by the Oklahoma State Department of Health.
 - (i) When a tuberculin skin test is required, employees with a positive skin test reaction must submit documentation by medical personnel that signs or symptoms of tuberculosis are not present.
 - (ii) An employee who has ever had a positive skin test reaction must have or provide documentation of a chest x-ray. Additional tests or x-rays are not required unless symptoms develop that are suggestive of tuberculosis.
 - (6) **Background history records searches.** OJA, through direct request, shall require a records search for each applicant for employment, which shall include the following:
 - (A) OJA shall make a direct request for background searches to be conducted on behalf of any:
 - (i) operator or responsible entity making a request to establish or operate a secure detention center, municipal juvenile facility, community intervention center or secure facility licensed or certified by OJA,
 - (ii) employee or applicant of a secure detention center, municipal juvenile facility, community intervention center or secure facility licensed or certified by OJA, or
 - (iii) persons allowed unsupervised access to children, including contract employees or volunteers, of a secure detention center, municipal juvenile facility, community intervention center or secure facility

about:blank 2/13

licensed or certified by OJA;

- (B) a national criminal history records search based upon submission of fingerprints that shall be provided by the Oklahoma State Bureau of Investigation (OSBI), including Rap Back notification, and the Federal Bureau of Investigation (FBI), pursuant to National Child Protection Act, 42 U.S.C. § 5119a, and 74 O.S. § 150.9, provided both the OSBI and FBI act in their designated role;
- (C) a search of the Oklahoma State Courts Network (OSCN) including Oklahoma District Court Records (ODCR);
- (D) a search of the Department of Human Services (DHS) Child Care Restricted Registry, also known as Joshua's List:
- (E) a search of the Department of Corrections (DOC) Sex Offender Registry;
- (F) a search of the DOC Violent Offender Registry, also known as the Mary Rippy Violent Crime Offenders Registry;
- (G) a search of all applicable out-of-state child abuse and neglect registries if the applicant has not lived continuously in Oklahoma for the past five (5) years;
 - (i) The prospective applicant is not approved without the results of the out-of-state maintained child abuse and neglect registry checks, when a registry is maintained in the applicable state;
 - (ii) When no child abuse and neglect registry is maintained in the applicable state, the facility shall request any information that can be provided; and
- (H) a criminal history records search conducted by an authorized source, when an applicant has lived outside the United States within the last five (5) years.
- (7) **Criminal history investigation.** The facility shall not employ or retain any person for whom there is documented evidence that the employee would endanger the health, safety, and/or well-being of juveniles.
 - (A) A facility shall not employ or retain an individual who has been:
 - (i) convicted of or entered a plea of guilty or nolo contendere to any felony involving:
 - (I) violence against a person;
 - (II) child abuse or neglect;
 - (III) possession, trafficking, manufacturing, sale or distribution of illegal drugs, or conspiracy to traffic, manufacture, sale, or distribute illegal drugs;
 - (IV) sexual misconduct;
 - (V) gross irresponsibility or disregard for the safety of others;
 - (VI) any crime against a child; or
 - (ii) in the case of child abuse and neglect, identified as a perpetrator in a juvenile court proceeding and/or has made an admission of guilt to a person authorized by state or federal laws or regulations to investigate child abuse and neglect.
 - (B) As to the offenses identified in subsection A(i)(III) and (V)a simple drug possession offender, the facility may, at its own discretion, make exceptions to the prohibition of employment if five (5) years have passed from completion of the applicant's criminal sentence and the facility can document that the health, safety, and well-being of juveniles would not be endangered.
 - (i) The facility shall consider, document, and submit to the Licensing and Programs Assessment division within ten (10) days of the employees first day of work the:
 - (I) type of crime or offense for which the individual was convicted or a finding was made; and
 - (II) reference letters concerning the individual in question.
 - (ii) The Licensing and Programs Assessment division may make a recommendation to the facility administrator as to whether the applicant for employment should be approved or disapproved.
 - (C) If there is an allegation that a staff member has committed an act as described in OAC 377:3-13-43(a)(7)(A), the facility shall determine and document whether the staff member shall be removed from contact with juveniles until the allegation is resolved.
 - (D) If any person is formally charged with any of the offenses described in OAC 377:3-13-43(a)(7)(A), notification must be made to the OJA Licensing and Programs Assessment division, and the employee must be removed from contact with juveniles until the charges are resolved.
 - (E) No employee of the facility shall use or be under the influence of alcohol or illegal drugs during hours of work nor shall any employee use or possess illegal drugs at any time.
- (8) **Personnel records.** The facility shall keep on file a written personnel record available for review for every staff person employed by the facility.
 - (A) The personnel record includes, but is not limited to:
 - (i) an application, resume or staff information sheet that documents qualifications for the position, valid driver's license or other state ID, birth certificate, applicable educational diploma;
 - (ii) health records as required by the facility;
 - (iii) three (3) written references and/or documentation of telephone interviews;
 - (iv) any reports and notes relating to the individual's employment with the facility and an annual job performance evaluations;

about:blank 3/13

- (v) dates of employment; and
- (vi) date and reason for leaving employment.
- (B) When employment is involuntarily terminated, a statement regarding the reason for termination is to be included in the personnel file.
- (C) Personnel records are maintained for at least three years following a staff member's separation.
- (D) All employees' records are kept confidential subject to existing state and federal statutes.
- (E) Staff members shall have access to their personnel files for reviewing purposes if a request is made to the facility administrator.
- (9) **Staff training.** All staff shall be trained on facility policy and procedure and a training record be established for each staff member. A record of all annual training shall be maintained. At the end of the year, it shall become part of the personnel record.
 - (A) Each direct-care staff member shall be provided orientation before being allowed to work independently.
 - (B) Auxiliary staff shall receive orientation to the facility's policy and procedure and to their assigned duties.
 - (C) During orientation the trainer shall acquaint staff with the philosophy, organization, program practice, and goals of the secure juvenile detention facility.
 - (D) "Requirements for Secure Juvenile Detention Facilities" is reviewed as a part of the orientation process and is available to staff at all times.
 - (E) Within ninety (90) days of employment, by a detention facility, all direct-care staff shall have successfully completed a specific course of instruction in first aid as established by the Red Cross, ASHI, AHA, and presented by a certified instructor, or by a certified instructor in an equivalent professionally recognized first aid training program. There shall be a certificate or card issued to the employee and this card must be signed by the certified instructor attesting to the employee's successful completion of the professionally recognized first aid training program. The Red Cross, ASHI, AHA, or its equivalent, first aid course of instruction, presented by a certified instructor shall be updated within the employee's third year of employment and each succeeding three-year increment. The first aid training may count towards the employee's required annual training hours.
 - (F) Within ninety (90) days of employment by a detention facility, all direct-care staff shall be certified in have successfully completed an approvedcourse of instruction in cardiopulmonary resuscitation (CPR) as established by the Red Cross, ASHI, AHA, or its equivalent. This training must be presented by a certified instructor, or by a certified instructor in an equivalent professionally recognized CPR training program. There shall be a certificate or card issued to the employee and this card must be signed by the certified instructor attesting to the employee's successful completion of the professionally recognized CPR training program. The Red Cross, ASHI, AHA, or its equivalent CPR course of instruction shall be presented by a certified instructor. Employees will maintain their certification, as required by the certifying entity. The CPR training may count towards the employee's required annual training hours.
 - (G) Full-time direct-care staff and administrators shall obtain at least 24 hours of training per employment year. Hours are prorated at two hours per month for staff who have not been employed for a full year.
 - (H) Part-time direct-care staff shall have training hours prorated based on the average number of hours of work
 - (I) On-call staff shall have a minimum of six (6) hours of training per year.
 - (J) Support staff shall obtain a minimum of twelve (12) hours of training per employment year.
 - (K) The content of staff development courses for direct-care staff is relative to their roles and responsibilities. Content may include:
 - (i) crisis intervention;
 - (ii) child development;
 - (iii) behavior management;
 - (iv) discipline;
 - (v) stress management;
 - (vi) therapeutic relationship and intervention;
 - (vii) child abuse detection, reporting and prevention;
 - (viii) suicide prevention;
 - (ix) human sexuality;
 - (x) client grievance procedures;
 - (xi) communicable diseases, including sexually transmitted diseases; and
 - (xii) any other training deemed necessary to meet individual or group training needs.
 - (L) Attendance at professional conferences, workshops, seminars, formal education classes, or in-service training is counted toward the training requirements provided the training is documented and meets the content requirements.
- (b) **Facility Administrator.** The duties and qualifications of the facility administrator are described in 1 2 of this subsection.
 - (1) **Responsibilities.** The facility administrator is responsible for implementing the policies adopted by the governing body, the ongoing operation of the facility, and compliance with the Requirements for Secure Juvenile Detention Facilities.

about:blank 4/13

- (A) In the facility administrator's absence a person shall be designated to act as administrator and shall be available to detention staff in person or by telephone.
- (B) A designated person of responsibility shall be at the secure juvenile detention facility at all times. The designated person is directly responsible to the administrator who is to be notified of any irregularities in the general affairs of detention and follow through with directives given.
- (C) The duties of the facility administrator include, but are not limited to:
 - (i) preparing and presenting the budget for the appropriate authority to review and approve;
 - (ii) administering the budget and maintaining accurate financial records;
 - (iii) employing and discharging staff according to the established personnel rules;
 - (iv) supervising the program overall;
 - (v) holding staff meetings on a monthly basis to discuss plans and interpret policies to the staff;
 - (vi) organizing a program for the continued training and development of staff;
 - (vii) establishing and maintaining working relationships with other social services agencies within the community; and
 - (viii) interpreting the program to professional and lay groups.

(2) Qualifications.

- (A) The education, experience, and qualifications of the administrator of a large facility (20 beds or more) are specified in writing by the governing body of the facility and includes, at a minimum:
 - (i) bachelor's degree from an accredited college/university in an appropriate <u>discipline and five (5)</u> <u>years relevant work experience; or</u>
 - (ii) an associate's degree from an accredited junior college, college, or university in an appropriate discipline and seven (7) years relevant work experience two (2) years of experience working with iuveniles; orand
 - (iii) ten (10) years relevant work experience. five (5) years in staff supervision and administration.
- (B) <u>As used in subsection (2)(A) above, relevant work experience shall include</u> The education, experience, and qualifications of the administrator of a small facility (less than 20 beds) are specified in writing by the governing body of the facility and includes, at a minimum:
 - (i) two (2) years of experience working with juveniles; and associate's degree from an accredited junior college/college/university in an appropriate discipline (i.e. social work, sociology, psychology, criminal justice, etc.); OR
 - (ii) five (5) years in staff supervision and administration. sixty (60) hours of credits from an accredited junior college/college/university of which fifteen (15) hours must be in the appropriate discipline as indicated in (i); and
 - (iii) two (2) years in staff supervision; and
 - (iv) one (1) year of experience working with juveniles.
- (C) A facility administrator hired prior to January 1, 2000 shall be exempt from the rules set forth in (A) of this paragraph.
- (3) Location. All facilities administrators must maintain their primary office at the detention facility.
- (4) No individual(s) shall be allowed to serve as the facility administrator, or their designee, with a confirmed/substantiated finding of abuse or neglect by DHS or other entity authorized by state, federal laws or regulations to investigate child abuse and neglect.
- (c) Direct care staff. The qualifications and hiring requirements for direct care staff are described in (1) (2) of this subsection.
 - (1) **Qualifications.** All direct-care staff shall be at least 21 years of age and possess a high school diploma or its <u>equivalent</u> or obtain a high school diploma or equivalent within the first year of <u>employment.</u>
 - (2) **Hiring requirements.** A direct-care staff person can be hired when the person:
 - (A) has his or her character and fitness attested to by three (3) satisfactory written references and a criminal history background check is conducted as required and in conformance with 377:3-13-43(a)(6);
 - (B) is qualified and capable of satisfactorily performing assigned job responsibilities; and
 - (C) does not pose a known risk to juveniles.
- (d) **Support staff.** Support staff shall be able to read and write; demonstrate knowledge and skills necessary to the job assignments; and meet the requirements for direct-care staff if responsible for direct care of juveniles for any part of the day.

377:3-13-44. Security and control

- (a) The facility shall have policy and procedure for security and control.
- (b) A list of in-house rules, outlining acts prohibited in the facility and the range of disciplinary procedures, is given to all juveniles. The list is posted in a conspicuous and accessible area.
 - (1) Staff members shall explain in-house rules to each juvenile admitted to the facility.
 - (2) When a literacy or language problem prevents a juvenile from understanding the list of rules, a staff member or translator shall assist the juvenile in understanding the rules.
- (c) Required security control procedures are described in 1 15 of this subsection.
 - (1) **Resident count.** The facility shall have a system to physically count detained juveniles.

about:blank 5/13

- (A) The facility director shall designate one staff member per shift to conduct at least one uninterrupted population count during the shift.
- (B) The staff member conducting the count shall be a trained employee in each living unit who shall see the juveniles being counted.
- (C) Juveniles shall not be permitted to move about the facility during the count.
- (D) Documentation of resident counts is available at the facility at all times.
- (2) **Mail security.** Written policy and procedure provide that a juvenile may send or receive mail without limitation, censorship, or prior reading by staff. Staff may open a juvenile's mail in the presence of the juvenile to inspect for contraband. However, staff shall not read the opened mail.
- (3) **Searches and control of contraband.** The facility shall have written policy and procedure governing searches and control of contraband.
 - (A) Policy and procedure include, but are not limited to:
 - (i) control of contraband;
 - (ii) searches for contraband;
 - (iii) body searches;
 - (iv) property searches;
 - (v) searches of the facility; and
 - (vi) visitor searches;
 - (B) Residents and visitors shall be notified that they are subject to search.
 - (C) No resident shall be searched beyond what is necessary to maintain proper security.
 - (D) Searches are conducted by a staff member of the same sex as the resident or visitor.
 - (E) A body cavity search may be conducted only when there is a strong reason to believe that the juvenile is concealing contraband in a body cavity.
 - (i) The facility administrator must give authorization to medical personnel for any body cavity search.
 - (ii) Medical personnel are the only persons authorized to perform body cavity searches.
 - (iii) The body cavity search must be conducted in a private area of the facility, without windows, which ensures the privacy and dignity of the juvenile.
 - (iv) A supervisory witness of the same sex as the juvenile shall be present during the body cavity search.
 - (v) The detention facility shall contact the OJA Advocate General within 24-hours of conducting a body cavity search.
- (4) **Staff ratios and staffing patterns.** There is a minimum ratio of 1:<u>8</u>7 direct-care staff to residents during waking hours and 1:16 during residents' sleeping hours, except during limited and discrete exigent circumstances, which shall be fully documented as required by the Oklahoma Administrative Code.
 - (A) Direct-care staff means staff responsible for the supervision and control of residents in housing units, recreational areas, dining areas, and other program areas of the facility. At least one (1) direct care staff member is to be assigned to each occupied common area during waking hours. Staff immediately adjacent to occupied common areas to permit staff to facilitate personal contact, to observe, to hear, and to respond promptly shall be deemed as direct-care staff. On-duty staff primarily responsible for monitoring cameras shall not be considered direct-care staff. Common areas is defined as any space where there are two (2) or more juveniles present, excluding bathrooms or resident's room.
 - (B) When a female is placed in detention, there must be a female staff member on duty and when a male is placed in detention, there must be a male staff member on duty;
 - (C)(B) A minimum of two direct-care staff are on duty at all times in the facility.
 - $(\underline{D})(C)$ Juveniles in detention shall be supervised at all times. The facility shall have enough staff available for staff to remain close to and in visual contact with the juveniles.
 - (i) If a resident is placed in their room for medical, safety, or behavioral concerns, this will be considered a room confinement and the facility licensing standards on resident visual observation checks will be adhered at all times.
 - (ii) During residents' sleeping hours room checks will be completed not to exceed 30 minutes between checks.
 - (iii) All room checks should be documented daily in an observation log and maintained by the facility.
 - (E) Exceptions to this rule may be approved in writing by the Office of Public Integrity's Licensing and Programs Assessment division.
- (5) **Surveillance plan.** The facility shall have a plan for surveillance of all areas of the perimeter of the facility. Outside lighting must be sufficient to provide visibility under all conditions with no blind spots.
- (6) **Door security.** All doors that are security perimeter entrances, exterior doors, and doors which the facility administrator determines should be locked are kept locked. These doors are unlocked only for admission or exit of juveniles, employees, or visitors or in case of an emergency.
 - (A) Doors to vacant units, unoccupied areas, and storage rooms are kept locked when not in use.
 - (B) Staff members shall know what doors must be locked and under what circumstances they are opened.
 - (C) Once a door is locked, it is checked to see that it is secured.

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- (7) **Key control.** The facility's key-control system provides for the following:
 - (A) a log to record the number of keys given out, the location of the lock, the number of keys to that lock, and the names of employees possessing keys;
 - (B) a central administrative area from where the keys can be issued;
 - (C) a manner of storage that permits easy determination of either the presence or absence of keys;
 - (D) labeling of all keys and maintenance of at least one duplicate key for each lock; and
 - (E) readily available fire and emergency keys.
- (8) **Physical force.** Rules relating to the use of physical force are set forth in this paragraph.
 - (A) Written policy and procedure limit the use of physical force:
 - (i) for self-protection;
 - (ii) to separate juveniles from fighting;
 - (iii) to restrain juveniles in danger of inflicting harm to themselves or others; and
 - (iv) to restrain juveniles who have escaped or who are in the process of escaping;
 - (B) The least amount of force is used.
 - (C) Physical force may not be used as punishment or retaliation.
 - (D) Facility personnel shall not encourage or knowingly permit any person to use physical force which is contrary to policy.
 - (E) Staff members shall not provoke physical confrontation by taunting, harassing, or cursing a resident or otherwise manipulating a resident into activities which would justify physical force.
 - (F) A written report is prepared following all uses of force and submitted to the facility administrator by the end of the shift detailing the incident which initiated the use of force, the type of force used and the beginning and end time of the use of force.
 - (G) Staff members shall receive written guidelines on the use of physical force and shall be informed that loss of employment may result if unauthorized use of physical force is proven.
 - (H) Medical attention shall be provided immediately upon the juvenile's release from restraint as a result of physical force even if there is not visible evidence or complaint of injury. Staff certified in first aid and CPR may provide medical attention and are responsible for referring the juvenile to licensed medical personnel, if warranted.
- (9) Use of mechanical restraints. Any instrument of restraint must be approved by the facility administrator or designee.
 - (A) Restraints are used only:
 - (i) for self-protection;
 - (ii) to separate juveniles from fighting;
 - (iii) to restrain juveniles in danger of inflicting harm to themselves or others;
 - (iv) to restrain juveniles who have escaped or who are in the process of escaping; and
 - (v) prevent destruction of property if reasonably related to (i) through (iv).
 - (B) Restraints are used only with the approval of the facility administrator or designee.
 - (C) Restraints may not be used as a form of punishment.
 - (D) Restraints are used only as long as necessary and are removed as soon as the juvenile regains control of his/her behavior.
 - (E) When restraints are placed on a juvenile, such placement must be made by a trained and authorized staff member in a humane manner that does not restrict the juvenile's blood circulation.
 - (F) Juveniles shall not be restrained to an immovable object.
 - (G) A juvenile's hands and feet may be restrained, however restraining of the juvenile's hands to his or her feet is prohibited.
 - (H) The use of hog-tying is prohibited.
 - (I) A juvenile placed in restraints shall not be left unattended and must be continually supervised.
 - (J) A full written report is submitted by the end of the shift to the administrator following every use of an instrument of restraint.
- (10) **Chemical agents.** Facility staff shall not use chemical agents for security. Staff may not use tear gas, mace, pepper spray, and related chemical agents to control juveniles.
- (11) **Weapons.** Weapons are not permitted except when authorized by state law.
- (12) **Procedures for separation from general population and/or general activities for disciplinary reasons.** The following procedure shall be utilized as an intermediary level of intervention, which requires the continual line of sight and sound observation of the juvenile. If a juvenile is separated from the general population, the reasons for the separation and length of time shall be documented in the written daily observation of the juvenile. The separation should not be in excess of 60 minutes. Additional intervals shall be approved by a supervisor/administrator who was not involved in the original incident. Facilities which do not have another supervisor/administrator on site shall receive re-authorization from the oncall administrator. The reasons for the continued separation must be documented. The juvenile shall be released when staff determines that he or she can safely be returned to the group.
- (13) **Room restriction.** Room restriction is one means of informally resolving minor juvenile misbehavior. It serves a "cooling off" purpose and has a short time period (up to 60 minutes) that is specified at the time of the assignment.

about:blank 7/13

- (14) **Room confinement.** Room confinement means locking a juvenile in his/her room when the juvenile has been charged with a major rule violation requiring confinement for his/her safety or the safety of others or to ensure the security of the facility.
 - (A) Room confinement is used with detained juveniles:
 - (i) for self-protection;
 - (ii) to separate juveniles from fighting;
 - (iii) to restrain juveniles in danger of inflicting harm to themselves or others;
 - (iv) to restrain juveniles who have escaped or who are in the process of escaping;
 - (v) to prevent destruction of property if reasonably related to (i) through (iv); and
 - (vi) stop behavior that incites other juveniles which jeopardizes the safety of staff and residents of the facility and is reasonably related to (i) through (iv).
 - (B) Room confinement of juveniles shall be re-authorized every 3 hours, except during normal sleeping hours, by a supervisor/administrator who was not involved in the original incident. Facilities which do not have another supervisor/administrator on site shall receive re-authorization every 3 hours from the on-call administrator. Reasons for continued room confinement shall be documented.
 - (C) A juvenile shall not be in room confinement in excess of 24 hours without the opportunity of an administrative review by the administrator or designee who was not involved in the incident. Any juvenile for whom it is determined by the administrator, or designee, to continue room confinement in excess of forty-eight (48) hours, must complete a report detailing the reasons for continued room confinement and submit it to the OJA for review within twenty-four (24) hours of exceeding the forty-eight (48) hours.
- (15) **Procedure for room confinement or room restriction.** When room restriction or confinement is used, the procedure given in (A) (E) of this paragraph is followed.
 - (A) Prior to room restriction or confinement, facility staff shall explain the reasons for the restriction or confinement to the juvenile and shall give the juvenile an opportunity to explain his or her behavior.
 - (B) Any juvenile shall be visibly observed by a staff member every 15 minutes, and this must be documented.
 - (C) Juveniles placed in room confinement shall be afforded living conditions and essential services approximating those available to the general juvenile population. Exceptions shall be justified in writing by clear and substantial evidence.
 - (D) The juvenile shall be released when staff determines juvenile can safely be returned to the group and no longer presents a safety risk to self or others.
 - (E) A written record shall be maintained on any juvenile placed in room restriction or confinement. It includes a log stating who authorized the action, names of persons observing the juvenile and times of observation, the person authorizing release, and the time of release.
- (16) **Escape and absence without leave.** The facility shall develop written policy and procedure for juveniles who escape from the facility or are absent without leave which shall include the notification of law enforcement agencies.

PART 7. REQUIRMENTS FOR COMMUNITY INTERVENTION CENTERS (CIC)

377:3-13-88. Personnel

- (a) Community Intervention Center (CIC) program director.
 - (1) **Qualifications.** The qualifications (including education and experience), authority, and responsibilities of the program director shall be specified in writing by the CIC's governing body, and include:
 - (A) a bachelor's degree; and
 - (B) one year of experience working with juveniles or working in the juvenile justice system.
- (b) **Direct-care staff qualifications.** All direct care staff shall be at least 21 years of age and possess a high school diploma or its equivalent or obtain a high school diploma or equivalent within the first year of employment.
- (c) **Background history records searches.** The Office of Juvenile Affairs, through direct request, shall require a records search for each applicant for employment, which shall include the following:
 - (1) a national criminal history records search based upon submission of fingerprints that shall be provided by the Oklahoma State Bureau of Investigation (OSBI), including the Rap Back notification, and the Federal Bureau of Investigation (FBI) National Child Protection Act, 42 U.S.C.A. § 5119a, and 74 O.S. § 150.9, provided both the OSBI and FBI act in their designated role;
 - (2) a search of the Oklahoma State Courts Network (OSCN) including Oklahoma District Court Records (ODCR);
 - (3) a search of the Department of Human Services (DHS) Child Care Restricted Registry, also known as Joshua's List;
 - (4) a search of the Department of Corrections (DOC) Sex Offender Registry;
 - (5) a search of the Department of Corrections (DOC) Violent Offender Registry, also known as the Mary Rippy Violent Crime Offenders Registry;
 - (6) a search of all applicable out-of-state child abuse and neglect registries if the applicant has not lived continuously in Oklahoma for the past five (5) years;

about:blank 8/13

- (A) The prospective applicant is not approved without the results of the out-of-state maintained child abuse and neglect registry checks, when a registry is maintained in the applicable state;
- (B) When no child abuse and neglect registry is maintained in the applicable state, the facility shall request any information that can be provided; and
- (7) a criminal history records search conducted by an authorized source, when an applicant has lived outside the United States within the last five (5) years.
- (8) the Office of Juvenile Affairs shall make a direct request for background searches to be conducted on behalf of any:
 - (A) operator or responsible entity making a request to establish or operate a secure detention center, municipal juvenile facility, community intervention center or secure facility licensed or certified by the Office of Juvenile Affairs.
 - (B) employee or applicant of a secure detention center, municipal juvenile facility, community intervention center or secure facility licensed or certified by the Office of Juvenile Affairs, or
 - (C) persons allowed unsupervised access to children, including contract employees or volunteers, of a secure detention center, municipal juvenile facility, community intervention center or secure facility licensed or certified by the Office of Juvenile Affairs.
- (d) **Criminal history investigation.** An employee's criminal history investigation record must be kept in a secure location, separate from his or her personnel file.
 - (1) A facility shall not employ or retain an individual who has been convicted of or entered a plea of guilty or nolo contendere to any felony involving:
 - (A) violence against a person;
 - (B) child abuse or neglect;
 - (C) possession, trafficking, manufacturing, sale or distribution of illegal drugs, or conspiracy to traffic, manufacture, sale, or distribute illegal drugs;
 - (D) sexual misconduct; or
 - (E) gross irresponsibility or disregard for the safety of others;
 - (F) any crime against a child; or
 - (G) in the case of child abuse and neglect, identified as a perpetrator in a juvenile court proceeding and/or has made an admission of guilt to a person authorized by state or federal laws or regulations to investigate child abuse and neglect.
 - (2) No employee of the CIC shall use or be under the influence of alcohol or illegal drugs during the hours of work nor shall any employee use or possess illegal drugs at any time.
 - (3) As to a simple drug possession offender, the facility may, at its own discretion, make exceptions to the prohibition of employment if five years have passed from completion of the applicant's criminal sentence and the facility can document that the health, safety, and well-being of juveniles would not be endangered.
 - (A) The facility shall consider, document, and submit to the Office of Public Integrity within 10 days of the employees first day of work the;
 - (i) type of crime or offense for which the individual was convicted or a finding was made; and
 - (ii) reference letters concerning the individual in question.
 - (B) The Office of Public Integrity may make a recommendation to the facility administrator as to whether the applicant for employment should be approved or disapproved.
 - (4) If any person is formally charged with any of the offenses described in OAC 377:3-13-88(d)(1), he or she must be removed from contact with juveniles until the charges are resolved.
 - (5) If there is an allegation that a staff member has committed an act as described in OAC 377:3-13-88(d)(1), the facility shall determine and document whether the staff member shall be removed from contact with juveniles until the allegation is resolved.
- (e) Health requirements. An employee's health record must be kept in a secure location, separate from his or her personnel file.
 - (1) Each employee must have a pre-employment physical conducted by a licensed physician.
 - (2) Testing for tuberculosis is not required on a routine basis. Tuberculin skin testing shall be required when there is a local identified tuberculin exposure identified by the Oklahoma State Department of Health.
 - (A) When a tuberculin skin test is required, employees with a positive skin test reaction must submit documentation by medical personnel that signs or symptoms of tuberculosis are not present.
 - (B) An employee who has ever had a positive skin test reaction must have or provide documentation of a chest x-ray. Additional tests or x-rays are not required unless symptoms develop that are suggestive of tuberculosis.
- (f) **Personnel records.** Every staff person employed by the CIC shall have a written personnel record, which complies with personnel policies of the municipality or service provider. The CIC shall have written personnel policies. The program director shall make personnel policies, which include written job descriptions, available to all employees. Either the policy or job description specifies the person to whom the employee is responsible and the duties the employee is expected to perform.
 - (1) Each personnel record must include:
 - (A) an application, resume, or staff information sheet that documents qualifications for the position;
 - (B) three reference letters, or if the reference was interviewed by phone, documentation of telephone interview must contain the:

about:blank 9/13

- (i) content of the interview;
- (ii) date and time of the interview; and
- (iii) name of employee conducting the telephone inter-view;
- (C) documentation that the staff member was provided a copy of personnel policies, including his or her job description.
- (D) written disciplinary action forms and job performance evaluations;
- (E) dates of employment; and
- (F) date and reason for employment separation or termination.
- (2) Personnel records shall be maintained for at least three (3) years following an employee's separation.
- (3) All employee records shall be confidential subject to existing federal and state statutes.
- (4) All employees shall have access to their personnel files for reviewing purposes upon request to the program director and according to agency policy.

(g) Staff orientation.

- (1) Each direct-care staff shall be provided orientation before being allowed to work independently In addition to a review of the certification standards and on-the-job training with an experienced staff member, the orientation must include a review of the CIC's:
 - (A) policies and procedures;
 - (B) philosophy and goals;
 - (C) organization;
 - (D) behavior management/crisis intervention training; and
 - (E) job expectations for the individual employee.
- (2) Within 90 days of employment, each direct-care staff shall successfully complete first aid training. The training must be conducted by a certified instructor from the American Red Cross or its equivalent. The employee must be recertified in first aid every three years. First aid training may be counted as training hours. At least one staff person trained and certified in first aid shall be present in the CIC at all times.
- (3) Within 90 days of employment, each direct-care staff shall be certified in cardiopulmonary resuscitation (CPR). The employee shall be recertified annually. CPR certification and recertification may be counted as training hours. At least one staff person trained and certified in CPR shall be present at all times.
- (4) Within six (6) months of employment, each direct-care staff shall complete a certified class on behavior management; e.g., MAB, MANDT, CLEET, etc.
- (5) The CIC must maintain written documentation of each area in which the employee received orientation.

(h) Staff training.

- (1) All direct-care staff and program administrators shall obtain at least 24 clock hours of training per employment year. Hours are prorated for staff who have not been employed for a full year or are part-time employees.
- (2) Professional conferences, workshops, seminars, formal education classes, or in-service training are considered training.
- (3) Documentation of the employee's training shall be maintained in the employee's file.

PART 11. REQUIREMENTS FOR SECURE JUVENILE DETENTION CENTERSCARE

377:3-13-123. Provisional certification [REVOKED]

- (a) Secure facilities certified by the Department of Human Services as residential childcare facilities prior to November 1, 2009, shall receive provisional certification to operate as a secure juvenile facility for 180 days. Prior to the conclusion of the 180 days, the Office of Juvenile Affairs shall evaluate of the facility to ensure that the facility meets the certification standards promulgated by the Board of Juvenile Affairs for secure juvenile facilities.
- (b) The Office of Juvenile Affairs shall initially evaluate any newly established secure juvenile facility to ensure compliance with standards relating to staffing and the physical plant. A determination that the facility meets the standards shall result in the issuance of a provisional certification for 180 days and authorization for the placement of juveniles into the facility. Prior to the conclusion of the 180 days, the Office of Juvenile Affairs shall evaluate the facility to ensure that it meets all certification standards promulgated by the Board of Juvenile Affairs for secure juvenile facilities.
- (c) Denial or revocation of certification. When the operator of a secure juvenile facility is unable or unwilling to comply with standards promulgated by the Office of Juvenile Affairs' Board or has failed to adequately protect the health, safety and welfare of the juveniles in its facility, OJA may deny or revoke the facility's certification. OJA shall furnish thirty (30) calendar days written notice of the decision to deny or revoke certification and the grounds for such action. The facility operator shall have thirty (30) calendar days from receipt of the OJA notice of denial or revocation to protest the action in writing to the OJA Executive Director. An administrative hearing shall be convened where the facility operator will be given the opportunity to present testimony and witnesses. If the result of the hearing is to uphold the OJA action of denial or revocation, the facility operator may appeal to the district court pursuant to 12 O.S. § 951. In the event there is not an appeal, the secure juvenile facility shall cease operation on the effective date of the denial or revocation action.

377:3-13-144. Security and control

about:blank 10/13

(a) Juvenile count.

- (1) At least one daily uninterrupted juvenile population count shall be conducted on each shift;
- (2) The results of the population count shall be transmitted to central control were it is documented and available at all times; and
- (3) No movement of juveniles shall be permitted during the population count.
- (b) Mail security. The secure facility shall have a mail security policy that shall include the following:
 - (1) A child shall have constant access to writing materials and may send mail without limitation, censorship or prior reading, and may receive mail without prior reading, except that mail may be opened in the presence of the child, without being read, to inspect for contraband, as defined by 57 O.S., § 21 or as otherwise defined by rules promulgated by the Board of Juvenile Affairs, or to inspect for material harmful to minors, as defined by 21 O.S., § 1040.75. Provided that, when based on legitimate facility interests of order and security as determined by the facility administrator, mail addressed to a child or sent by a child may be read, censored, or rejected, except that mail addressed to a child from the attorney of the child or sent by the child to the attorney of said child shall not be opened, censored, or withheld in any way. The child shall be notified when incoming or outgoing mail is withheld in part or in full.
 - (A) Legitimate facility interests may include but are not limited to:
 - (i) for security reasons where a clearly documented reason exists, e.g., the correspondent has aided the juvenile in planning an escape or has used the mail to send the juvenile contraband items;
 - (ii) where it is clearly documented that the correspondence is from a person whose continued relationship poses a threat to the juvenile's treatment or rehabilitation; or
 - (iii) when the correspondence is from correctional facility inmates whose continued relationship poses a threat to the juvenile's treatment or rehabilitation.
 - (B) In any of the above cases, staff shall return the unopened mail to its point of origin, unless it is clearly documented that the correspondence is from a relative.

(c) Control of contraband and Facility Prohibited Item (FPI).

- (1) Contraband is defined as any item introduced or found in the secure facility, the mere presence or possession of which shall constitute a violation of criminal law. Contraband discovery procedures require:
 - (A) confiscation by staff with the completion of a report prior to the end of the shift;
 - (B) a log entry by staff containing the contraband description and names of involved person(s);
 - (C) placement of the contraband into secure storage;
 - (D) a notification to the facility administration for the initiation of a criminal investigation; and
 - (E) the establishment of a timeline and procedures for storing and disposing of contraband;
- (2) A Facility Prohibited Item (FPI) is defined as an item in an individual's possession or control, which is a violation of facility, or unit rules, but does not constitute a violation of criminal law. FPI discovery procedures require:
 - (A) The confiscation of the FPI by staff with the completion of a report prior to the end of the shift;
 - (B) a log entry by staff containing the FPI description and the names of involved person(s);
 - (C) non-perishable FPI confiscated from a juvenile shall be entered on the juvenile's personal property inventory and, if appropriate, returned upon the juvenile's release;
 - (D) all other non-perishable FPI confiscated from staff, visitors or others shall be inventoried and properly disposed of when no longer administratively necessary;
 - (E) all perishable FPI shall be photographed, if necessary, and immediately disposed of in an appropriate manner; and
 - (F) the opportunity for juveniles to challenge the confiscation of FPI through the established grievance procedure.

(d) Searches.

- (1) **General area search** is defined as a random search of all areas of the secure facility for the security and safety of the juveniles and staff.
 - (A) The facility administrator shall authorize the procedures through the distribution of a post order.
 - (B) The search shall be accomplished under the direction of a security shift supervisor by teams of two or more staff trained in conducting searches.
 - (C) The use of a canine may be authorized, if appropriate and available.
 - (D) Dates and times for the searches shall be at the discretion of the secure facility's administrator.
 - (E) The objective of the searches shall be to discover and confiscate contraband and/or FPI.
 - (F) The completion of staff reports shall be required before the end of shift.
- (2) **Specific area search** is defined as a search limited to a certain time and area involving juveniles' personal property in one or more juvenile living quarters.
 - (A) The search shall be based on reasonable suspicion that a juvenile(s) is in possession of contraband and/or FPI or without reasonable suspicion upon the routine transfer of a juvenile from one living area to another.
 - (B) A facility administrator shall authorize a search based upon reasonable suspicion while a shift supervisor or above shall authorize a search based on a routine transfer.
 - (C) The search shall be accomplished under the direction of a security shift supervisor by teams of two or more staff trained in conducting searches.
 - (D) The use of a canine may be authorized, if appropriate and available.

about:blank 11/13

- (E) The date and time for the search shall be specific to the event establishing reasonable suspicion or to the date, time and location of the routine juvenile transfer.
- (F) The search objective shall be to discover and confiscate contraband and/or FPI and/or recover missing property and/or injurious item(s).
- (G) The completion of staff reports shall be required prior to the end of shift.
- (3) **Juvenile body search** is defined as observing and touching the body to discover contraband and/or FPI and is described from the least intrusive to the most intrusive types of search:
 - (A) Pat search is considered to be a routine search and the least intrusive type of search.
 - (i) It shall be routinely conducted based on suspicion of contraband and/or FPI on the juvenile's person.
 - (ii) It shall be routinely conducted:
 - (I) Upon the completion of work assignments (i.e. kitchen, maintenance, etc.); or
 - (II) At the conclusion of visitation;
 - (III) After returning from recreation or from school; or
 - (IV) Following a restraint.
 - (iii) The search shall be conducted by a minimum of two staff members trained in searches, one of whom shall be the same gender as the juvenile, except in an emergency situation.
 - (iv) Procedures for conducting the search include:
 - (I) The use of hands to pat the outside clothing covering the body;
 - (II) The back of the hands shall be used to pat the genitals, buttocks (males and females) and breasts (female); and
 - (III) The search may include the removal of coat, hat, gloves, shoes and socks.
 - (v) A written report shall be required by the end of the shift only when an illegal and/or prohibited item(s) is found.
 - (B) **Disrobement search** is considered intrusive and involves the complete removal of all clothing items from the body.
 - (i) This search requires reasonable suspicion that a juvenile(s) is in possession of contraband and/or injurious item(s) and shall be conducted pursuant to verbal or written authorization from the facility administrator or designee.
 - (ii) The search shall be routinely conducted:
 - (I) During admission to the secure facility; or
 - (II) During discharge from the secure facility; or
 - (III) Upon return from a pass; or
 - (IV) Upon return from any appointment, court appearance, event or activity outside the perimeter fence of the secure facility.
 - (iii) The search shall be accomplished under the direction of a security shift supervisor by a minimum of two staff members trained in searches, both of whom are the same gender as the juvenile.
 - (iv) The search shall be conducted in a professional manner in an area that prevents observation by other staff and/or other juveniles and not covered by surveillance cameras.
 - (v) A written report is required by the end of the shift whether or not an illegal and/or prohibited item(s) is found.
 - (C) Cavity search is defined as a non-routine and intrusive search that involves medical personnel in searching the internal areas of body orifices.
 - (i) The search requires prior written authorization by the facility's administrator or designee based on written facts that would lead a reasonable person to believe a juvenile is carrying contraband and/or injurious item(s) in a body cavity.
 - (ii) The search shall only be conducted by a physician at the secure facility or by medical personnel at a local hospital.
 - (iii) A written report shall be required by the end of the shift documenting the search, including the names of the medical personnel involved, whether or not an illegal and/or prohibited item(s) is found.
- (4) Each facility shall maintain a stationary and mobile magnetometer in good working order. All juveniles, staff, and visitors shall be required to pass through the facility's magnetometer (metal detector), and hand-wand if necessary, prior to entry into the facility.
- (e) Staff ratios.
 - (1) The ratio of staff to juveniles on a unit shall not be less than 1 to $\underline{810}$ during waking hours and 1 to $\underline{1012}$ during sleeping hours. For units composed entirely of secure individual sleeping rooms the ratio shall not be less than 1 to 10 during waking hours and 1 to 14 during sleeping hours.
 - (2) At least one staff member of the same gender as the juveniles shall be on duty within the facility on each shift.
 - (3) Juveniles shall be supervised at all times. Each secure facility shall maintain a plan that details the frequency of visual checks of juveniles made by the staff.

(f) Surveillance plan.

about:blank 12/13

- (1) The secure facility shall have a plan for surveillance of all areas of the facility's perimeter. Outside lighting must be sufficient to provide visibility under all conditions with no blind spots.
- (2) The facility shall maintain a camera system that is in working condition and monitored by staff in real time with recording capabilities to maintain a minimum of ninety (90) days of video.

(g) Door security.

- (1) All perimeter security doors to the living units shall be locked and doors to vacant or unoccupied living units and storage rooms shall remain locked when not in use.
- (2) The facility shall maintain a backup release system that allows for the immediate release of juveniles from locked areas in the event of an emergency.

(h) Key control.

- (1) The facility's key control system shall include:
 - (A) The maintenance of a log of all keys with lock locations and names of employees possessing keys;
 - (B) Key storage that permits easy determination of the presence or absence of keys;
 - (C) The maintenance of at least one duplicate key for each lock in the facility;
 - (D) A central area from which keys are issued; and
 - (E) The labeling of all keys to include color-coding and touch identification of emergency keys.
 - (F) No keys shall be taken off the premises except as authorized by the facility administrator.

(i) Physical force.

- (1) Use of force is authorized, as provided in 10A O.S., § 2-7-604 and 377:10-1-4.
- (2) Use of physical force requires a medical evaluation and photo(s) of the juvenile(s) immediately following the incident.
- (3) A written report is required prior to the end of shift following all uses of physical force.
- (j) Mechanical restraints. The standards regarding mechanical restraints are found in 10A O.S., § 2-7-604 and 377:10-1-4.
- (k) Oleoresin Capsicum. The use of Oleoresin Capsicum (OC) spray is prohibitedshall conform to 377:10-1-4.1.

(1) Solitary Confinement.

- (1) The use of confinement as a method of intervention with juveniles shall be limited to the following:
 - (A) Solitary confinement is the involuntary removal of a juvenile from contact with other persons by confinement in a locked room, including the juvenile's own room, except during normal sleeping hours. Solitary confinement is a serious and extreme measure to be imposed only in emergency situations. It may be imposed only upon a juvenile in a secure facility who is out of control and is a serious and immediate physical danger to him or herself or others, and only after less restrictive methods of control have failed.
 - (B) Solitary confinement shall not be used for punishment at any secure facility. No juvenile shall remain continuously in solitary confinement in excess of three (3) hours. As soon as the juvenile is sufficiently under control so as to no longer pose a serious and immediate danger to him or herself or others, the juvenile shall be released from solitary confinement. The use of such confinement is not limited to three (3) continuous hours within any twenty-four (24) hour period when the juvenile is out of control and poses a continuing serious and immediate physical danger to him or herself or others, provided that any juvenile who meets this required standard for such confinement for a period in excess of three (3) continuous hours must be examined by a licensed mental health professional at the conclusion of the 3-hour period.
 - (C) All rooms used for solitary confinement shall have at least eighty (80) square feet of floor space, and shall have toilets, potable water, and adequate lighting, heating/cooling, and ventilation for the comfort of the juvenile. Juveniles in solitary confinement shall have access to appropriate medical and psychological services.
- (2) A facility shall establish procedures for solitary confinement that include:
 - (A) a log of events to include date, time, location and rationale;
 - (B) staff visual observation of juvenile behavior as documented every fifteen minute period the juvenile is in solitary confinement; and
 - (C) reauthorization by the facility administrator after every twenty-four (24) hour period of time the juvenile has been in solitary confinement.
- (3) Juveniles are afforded living conditions and privileges based on their behavior.
- (4) The establishment of a cool down period and time out periodas appropriate types of interventions for inappropriate juvenile behaviors.

(m) Firearms and tools.

- (1) Firearms shall not be permitted in the secure facility except for law enforcement officers during emergency situations.
- (2) All tools and kitchen utensils shall be classified, controlled and stored based on their level of risk for death or serious injury.
- (n) **Escape.** The facility shall develop procedures for apprehension of juveniles who escape from the facility to include notification of law enforcement agencies and OJA criminal investigators.

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Proposed Rule Language filed as the Notice of Intent with the Secretary of State

CHAPTER 1. FUNCTION AND STRUCTURE OF THE OFFICE OF JUVENILE AFFAIRS

SUBCHAPTER 1. FUNCTION AND STRUCTURE OF THE OFFICE OF JUVENILE AFFAIRS

377:1-1-1. Purpose

The purpose of this Chapter is to describe the organizational structure and function of the Office of Juvenile Affairs (OJA). This Chapter indicates the legal <u>basis</u> <u>bases</u> of OJA, identifies OJA divisions and units, and outlines other rules governing the overall operation of the OJA.

377:1-1-5. Board of Juvenile Affairs [REVOKED]

- (a) Composition. The Board of Juvenile Affairs (Board), per 10A O.S. § 2-7-101, is the governing body for OJA. The Board consists of nine (9) members; five (5) members appointed by the Governor, two (2) members appointed by the President Pro-Tempore of the Senate, and two (2) members appointed by the Speaker of the House, all members serve at the pleasure of their appointing authority.
- (b) Meetings. Regularly scheduled meetings of the Board shall be held at places, dates, and times fixed by the Board and after appropriate notice. Special meetings may be called by the Chair or by five (5) members of the Board. Emergency meetings of the Board may be called as provided by Oklahoma statutes. All meetings, including executive sessions, shall be conducted in accordance with the provisions of the Open Meeting Act.
- (c) Voting. A majority of members serving on the Board shall constitute a quorum.
 - (1) The acts of the majority of the members present at a meeting at which a quorum is present shall be the acts of the Board except that a vote of not less than four (4) members of the Board shall be required to amend these rules.
 - (2) A member may disqualify from a vote at any time and without explanation. A member who disqualifies from a vote shall be considered to be not present for purposes of that vote.
- (d) Election of officers. The Chair and Vice-chair shall be elected in accordance with 10A O.S. § 2-7-101(E), and shall hold office until his or her successor has been duly elected or upon death, resignation, or removal.
- (e) Vacancies. A vacancy in the elected position of Chair or Vice-chair because of death, resignation, removal, disqualification, or otherwise, may be filled by the Board for the unexpired portion of the term of the position.
- (f) Duties of the position of Chair and Vice-chair. The Chair, or in the Chair's absence, the Vice-chair, shall preside at all meetings of the Board, including executive sessions. The Chair shall be the final authority on all procedural issues, and may, when appropriate, refer to and follow the recommendations of legal counsel for the OJA or "Robert's Rules of Order" to resolve a procedural issue.
 - (1) The Chair, within two (2) weeks of a member's new appointment, shall:
 - (A) brief the member of the Board regarding the duties and responsibilities of the Board and its members;
 - (B) provide the new member a copy of the statutes pertinent to the Board and its duties;
 - (C) provide a copy of the monthly operating budgets of OJA for the preceding twelve months;
 - (D) provide a copy of the rules under which OJA functions and operates; and
 - (E) provide such other information as is necessary to assure that the new member is advised of his or her duties and responsibilities.
 - (2) The Chair may delegate the briefing described in paragraph (1) of this subsection in whole or part to the Executive Director or a managing officer, but the responsibility for its accomplishment shall remain with the Chair.
- (g) **Responsibilities.** The Board of Juvenile Affairs, in addition to the duties required by 10A O.S. §§ 2-3-103, 2-4-103, 2-7-101, 2-7-201, 2-7-305(D), 2-7-306, 2-7-608, 2-7-613, 2-7-614, 2-7-616, 2-7-704, and 2-8-112, may:
 - (1) review and approve OJA's budget request to the Governor;
 - (2) adopt nonbinding resolutions requesting action by OJA in response to comments from the public or upon the Board's own initiative:
 - (3) if necessary and in accordance with 10A O.S. § 2-7-201(G), designate an interim or acting Executive Director;
 - (4) advise OJA with respect to real estate leases;
 - (5) review the OJA Annual Report which analyzes and evaluates the effectiveness of OJA programs and services;
 - (6) promulgate rules for OJA to obtain national criminal history records searches for personnel working with or around juveniles in OJA institutions and contracted facilities, pursuant to 10 O.S. § 404.1(A)(14);
 - (7) receive and review institutional inspection reports of the State Fire Marshall and Commissioner of Public Health;
 - (8) establish standards for regimented juvenile training programs;
 - (9) establish certification standards for municipal juvenile facilities for temporary detention;
 - (10) approve a form for the statistical reporting of detention of persons under the age of 18;

377:1-1-6. Rates and Standards Committee [REVOKED]

The Board of Juvenile Affairs (Board) is the official rate-setting body for the programs administered by OJA. The Rates and Standards Committee (Committee) is responsible for making recommendations to the Board regarding fixed fiscal rates and

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standards for service contracts entered into by OJA. The Rates and Standards Committee is not authorized to make decisions regarding rate setting. The Committee's purpose is to advise and make recommendations to the Board.

377:1-1-7. Legal Base for Rates and Standards Committee [REVOKED]

The legal base for establishing fixed and uniform rates is found at 10A O.S. 2-7-101(F)(6) and 74 O.S. § 85.7(A)(6).

377:1-1-8. Rates and Standards Committee membership [REVOKED]

The Chair of the Rates and Standards Committee shall be a member of the Board of Juvenile Affairs (Board) and shall be appointed by the Board. In addition to the Chair, the Committee shall be comprised of the Board's Finance Sub-Committee Chair, and the Executive Director of OJA, or designee.

377:1-1-9. Conduct of Committee meetings [REVOKED]

- (a) Committee meetings are called by either the Chair, Executive Director, or Board of Juvenile Affairs. A majority of the Committee constitutes a quorum. Recommendations of the Committee are approved by a majority of the members present and voting.
- (b) During a meeting in which the Committee intends to vote on a rate setting recommendation for the Board of Juvenile Affairs, the public, vendors, or OJA staff shall provide evidence to support rate recommendations.
- (c) A party requesting a rate shall supply the following information and data to justify the proposed rate recommendation:
 - (1) a description of the program or service, including the target population and an annual estimate of the number of juveniles to whom the service will be provided;
 - (2) any historical rate information regarding previous rates established for the program, or rates for similar programs or services if no rate exists;
 - (3) an explanation and cite of cite and explain any Federal, State, and other regulations and standards which apply;
 - (4) the rate being proposed, a summary of the program and cost variables included in the rate, and a program and fiscal impact statement on the juvenile justice system;
 - (5) the operational budget and narrative justification for each budget category, including the methodology and cost computations used to arrive at the proposed rate; and
 - (6) an estimated total cost of the service.
- (d) If the Committee determines additional information is needed, the Chair may recess the meeting until a later date to allow interested parties or staff additional time to secure the information.
- (e) In making its recommendations, the Committee shall consider any relevant data which is consistent with applicable state plans, all relevant administrative rules, OJA policies and procedures, and statutory provisions.
- (f) Once the Committee establishes a recommendation, notification of the proposed rates and standards along with any supporting documentation will be sent to the Office of Management and Enterprise Services (OMES). The Chair shall place the item on the agenda of a Board of Juvenile Affairs meeting for a public hearing to set the rate, after proposed rates and standards have been approved by OMES. The public hearing may be held during any Board meeting.

377:1-1-10. Public hearing regarding a fixed rate [REVOKED]

- (a) Any comments from OMES, whether made in person or in writing, are included in the minutes of the Board meeting.
- (b) During the Board meeting, the Chair of the Rates and Standards Committee, or a designee, shall present the proposed rate and provide the Committee's recommendation to the Board.
- (c) After the Chair's presentation, interested parties shall be given the opportunity for public comments regarding the proposed rates. Each rate must be openly and separately discussed before the Board's vote. The Board may vote to approve, deny, or modify the recommendation of the Rates and Standards Committee.

SUBCHAPTER 3. BOARD OF JUVENILE AFFAIRS

377:1-3-25. Purpose

<u>The purpose of this Chapter is to describe the organizational structure and function of the Board of Juvenile Affairs (Board). See 10A O.S. § 2-7-101.</u>

377:1-3-26. <u>Legal baseBoard Composition</u>

- (a) Composition. The Board of Juvenile Affairs (Board), per 10A O.S. § 2-7-101, is the governing body for OJA. The Board consists of nine (9) members: five (5) members appointed by the Governor, two (2) members appointed by the President pro-Tempore of the Senate, and two (2) members appointed by the Speaker of the House. All members serve at the pleasure of their appointing authority.
- (b) Meetings. Regularly scheduled meetings of the Board shall be held at places, dates, and times fixed by the Board and after appropriate notice. Special meetings may be called by the Chair or by five (5) members of the Board. Emergency meetings of the

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Board may be called as provided by Oklahoma statutes. All meetings, including executive sessions, shall be conducted in accordance with the provisions of the Open Meeting Act.

- (c) Voting. A majority of members serving on the Board shall constitute a quorum.
 - (1) The acts of the majority of the members present at a meeting at which a quorum is present shall be the acts of the Board except that a vote of not less than four (4) members of the Board shall be required to amend these rules.
 - (2) A member may be disqualified from a vote at a time and without explanation. A member who is disqualified from a vote shall be considered to be not present for the purposes of that vote.
- (d) Election of officers. The Chair and Vice-chair shall be elected in accordance with 10A O.S. § 2-7-101(E), and shall hold office until his or her successor has been duly elected or upon death, resignation, or removal.
- (e) Vacancies. A vacancy in the elected position of Chair or Vice-chair because of death, resignation, removal, disqualification, or otherwise, may be filled by the Board for the unexpired portion of the term of the position.
- (f) Duties of the position of Chair and Vice-Chair. The Chair, or in the Chair's absence, the Vice-Chair shall preside at all meetings of the Board, including executive sessions. The Chair shall be the final authority on all procedural issues. When appropriate, the Board may refer to and follow the recommendations of legal counsel for OJA or "Robert's Rules of Order" to resolve a procedural issue.
 - (1) The Chair, within two (2) weeks of a member's new appointment, shall:
 - (A) Brief the member of the Board regarding the duties and responsibilities of the Board and its members;
 - (B) Provide the new member a copy of the statutes pertinent to the Board and its duties;
 - (C) Provide a copy of the monthly operating budgets of OJA for the preceding twelve months;
 - (D) Provide a copy of the rules under which OJA functions and operates; and
 - (\underline{E}) Provide such other information as necessary to assure the new member is advised of his or her duties and responsibilities.
 - (2) The Chair may delegate the briefing described in paragraph (1) of this subsection in whole or part to the Executive Director or a managing officer. It is still the Chair's responsibility to verify the new member received the briefing.
- (g) **Responsibilities.** The Board of Juvenile Affairs, in addition to the duties required by 10A O.S. §§ 2-3-103, 2-4-103, 2-7-101, 2-7-201, 2-7-305(D), 2-7-306, 2-7-608, 2-7-613, 2-7-614, 2-7-616, 2-7-704, and 2-8-112, may:
 - (1) Review and approve OJA's budget request to the Governor;
 - (2) Adopt nonbinding resolutions requesting action by OJA in response to comments from the public or upon the Board's own initiative;
 - (3) If necessary and in accordance with 10A O.S. § 2-7-201(G), designate an interim or acting Executive Director;
 - (4) Advise OJA with respect to real estate leases;
 - (5) Review the OJA Annual Report, which analyzes and evaluates the effectiveness of OJA programs and services;
 - (6) Promulgate rules for OJA to obtain national criminal history record searches for personnel working with or around juveniles in OJA institutions and contracted facilities, pursuant to 10 O.S. § 404.1(A)(14);
 - (7) Receive and review institutional inspection reports of the State Fire Marshall and Commissioner of Public Health;
 - (8) Establish standards for regimented juvenile training programs;
 - (9) Establish certification standards for municipal juvenile facilities for temporary detention; and
 - (10) Approve a form for the statistical reporting of detention of persons under the age of 18.

377:1-3-27. Rates and Standards Committee membership

The Board of Juvenile Affairs (Board) is the official rate-setting body for the programs administered by OJA. See 10A O.S. 2-7-101(F)(6) and 74 O.S. § 85.7(A)(6)(f). The Chair of the Rates and Standards Committee shall be a member of the Board of Juvenile Affairs (Board) and shall be appointed by the Board. In addition to the Chair, the Committee shall comprise the Board's Finance Sub-Committee Chair and the Executive Director of OJA or designee. The Rates and Standards Committee (Committee) is responsible for making recommendations to the Board regarding fixed fiscal rates and standards for service contracts entered into by OJA. The Rates and Standards Committee is not authorized to make decisions regarding rate setting; its purpose is to advise and make recommendations to the Board.

377:1-3-28. Conduct of Committee meetings

- (a) Committee meetings are called by the Committee Chair, Executive Director, or the Board. A majority of the Committee constitutes a quorum. The committee's recommendations are approved by a majority of the members present and voting.
- (b) During a meeting in which the Committee intends to vote on a rate-setting recommendation for the Board, the public, vendors, or OJA staff shall provide evidence to support rate recommendations.
- (c) A party requesting a rate shall supply the following information and data to justify the proposed rate recommendation:
 - (1) A description of the program or service, including the target population and an annual estimate of the number of juveniles to whom the service will be provided;
 - (2) Any historical rate information regarding previous rates established for the program or rates for similar programs or services if no rate exists;
 - (3) An explanation and an explanation of and citation to any Federal, State, and other regulations and standards that apply;

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- (4) The rate being proposed, a summary of the program and cost variables included in the rate, and a program and fiscal impact statement on the juvenile justice system;
- (5) The operational budget and narrative justification for each budget category, including the methodology and cost computations used to arrive at the proposed rate; and
- (6) An estimated total cost of the service.
- (d) If the Committee determines additional information is needed, the Chair may recess the meeting until later to allow interested parties or staff additional time to secure the information.
- (e) In making its recommendations, the Committee shall consider any relevant data consistent with applicable state plans, all relevant administrative rules, OJA policies and procedures, and statutory provisions.
- (f) Once the Committee establishes a recommendation, notification of the proposed rates and standards and any supporting documentation will be sent to the Office of Management and Enterprise Services (OMES). After OMES has approved the proposed rates and standards, they will be placed on the next Board agenda for a public hearing to set the rate.

377:1-3-29. Board meeting in which the Board may vote for a fixed rate

- (a) Any comments from OMES, whether made in person or in writing, are included in the minutes of the Board meeting.
- (b) During the Board meeting, the Chair of the Rates and Standards Committee, or a designee, shall present the proposed rate and provide the Committee's recommendation to the Board.
- (c) Interested parties shall be given the opportunity for public comments regarding the proposed rates. The Board may vote to approve, deny, or modify the recommendation of the Rates and Standards Committee.

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CHAPTER 3. ADMINISTRATIVE SERVICES

SUBCHAPTER 1. OFFICE OF THE EXECUTIVE DIRECTOR

PART 3. OFFICE OF THE ADVOCATE GENERAL

377:3-1-20. Legal base and authority basis

The State's legal basis and authority for the rules and procedure in this subchapter are found in 10A O.S., §§ 1-2-101, 1-2-102, 2-7-302, and 2-7-603.

377:3-1-21. Definitions

The following words and terms, when used in this Subchapter, have the following meaning, unless the context clearly indicates otherwise:

- "Abuse" is defined in Title 10A O.S., § 1-1-105, for purposes of this subchapter abuse includes sexual harassment.
- "Advocate defender" means the institutional staff member responsible for:
 - (A) assuring that juveniles in custody have available and understand the grievance process channels;
 - (B) other duties as assigned by the Executive Director or policy; monitoring and reviewing grievance procedures;
 - (C) conducting the tentative release date hearings with juveniles and attending parole hearings;
 - (D) supervising the communication of grievance procedure to staff and juveniles;
 - (E) facilitating resolutions and regularly reviewing informal grievances;
 - (C)(F) ensuring allegations of abuse and neglect are properly reported to the Advocate General of the Office Of Juvenile Affairs; and
 - (D)(G) ensuring that allegations of caretaker misconduct by a person responsible for a child residing in an OJA secure facility not rising to the level of abuse or neglect are reported to the Advocate General of the Office of Juvenile Affairs.
- "Caretaker" with regard to juveniles in the Office of Juvenile Affairs' custody means an agent or employee of a public or private institution or a public or private residential home above the level of foster care.
 - "Caretaker Misconduct" is defined in Department of Human Services' Rule OAC:340:2-3-2.
 - "Grievance coordinator" means a group home staff member responsible for:
 - (A) assuring that juveniles in custody have available and understand grievance channels;
 - (B) monitoring and reviewing grievance procedures and hearings;
 - (C) supervising the communication of grievance procedure to staff and juveniles; and
 - (D) regularly reviewing informal grievances and resolutions.
 - "Neglect" is defined in Title 10A O.S., § 1-1-105.
 - "Sexual harassment" as used in this subchapter is defined in 28 C.F.R. § 115.6.

377:3-1-23. Job duties

The job duties of the Advocate General (AG) are provided in (1)- (11) of this Section.

- (1) The AG shall supervise staff assigned to secure juvenile facilities as advocate defenders.
- (2) The AG shall inquire into and make recommendations to the appropriate Division Director regarding juvenile-related grievances which are not resolved at the facility level.
- (3) The AG shall monitor the system to ensure that allegations of abuse or neglect of a child who is in OJA custody and placed in a facility operated by or under contract with OJA are reported as provided by law.
- (4) The AG shall coordinate any hearings or meetings of administrative review committees conducted as a result of investigations or unresolved grievances.
- (5) The AG shall make recommendations to the OJA Executive Director and appropriate Division Director pursuant to 377:3-1-25;
- (6) The AG shall provide <u>quarterly</u> reports on grievance procedures, hearings, and investigations to the Executive Director of OJA, the Board of Juvenile Affairs, and to other persons or entities as necessary to facilitate system responsiveness.
- (7) The AG shall forward an abstract of grievances which are not resolved in favor of the person filing the grievance, and which have exhausted all available levels of appeal, to the Office of Juvenile System Oversight, the Executive Director, and the OJA Board of Juvenile Affairs.
- (8) The AG shall:
 - (A) monitor rules and practices of OJA and its contractors to ensure compliance with juveniles' rights;
 - (B) report the number and types of investigations at juvenile facilities at least quarterly to the OJA Board of Juvenile Affairs in open meeting; and
 - (C) make additional reports to the OJA Board of Juvenile Affairs as needed.
- (9) The AG shall perform other duties as required by the Executive Director.

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- (10) In cooperation with the Executive Director, the Advocate General shall establish a system for review of allegations of caretaker misconduct by a person responsible for a child residing in an OJA secure facility not rising to the level of abuse or neglect. Such system shall be approved by the Board of Juvenile Affairs.
- (11) The AG shall ensure that an appropriate training program in child abuse and neglect reporting for facility staff is developed by the Office of Juvenile Affairs.

377:3-1-24. Staff

In order to To assure that OJA and contract facility staff are aware of the rights of juveniles and the responsibilities of staff, the facility administrator or designee shall give each staff member a copy of the rules in this Part as part of a new staff member's orientation. The facility director shall ensureassure that each staff member receives an initial orientation on the rules in this Part within 30 days of employment and comprehensive training at least annually. The AGAdvocate General, or designee, along with the facility administrator, shall share the responsibility for training staff. The facility administrator or designee shall maintain a system to document compliance with the training requirement.

377:3-1-25. Abuse, neglect, and caretaker misconduct of a child in OJA custody and placed in a secure facility or other facility operated by or through contract with OJA

- (a) **Requirements for reporting incidents of abuse and neglect.** Section 1-2-101 of Title 10A of the Oklahoma Statutes, O.S., § 1-2-101 requires every person who, in good faith =and exercising due care, has reason to believe that a child under the age of eighteen (18) is a victim of abuse or neglect to report the condition or incident to the appropriate office for investigation through the DHS statewide centralized hotline. For purposes of the reporting requirements for this subchapter, abuse is defined in Title 10A O.S.; § 1-1-105, and shall include sexual harassment. An employee who, in good faith and exercising due care, has reason to believe that a child is a victim of abuse or neglect shall make an immediate, verbal or email report, as required by 10A O.S.; § 1-2-101 and to their supervisor who shall ensure a report is made to the OJA Office of Advocate General, or as required by 10A O.S.; § 1-2-102 to the DHS hotline, when:
 - (1) the employee has reason to believe <u>asuch</u> child has been the victim of abuse or neglect;
 - (2) a child, parent, guardian, or other person makes an allegation of abuse or neglect of such child.
- (b) Use of restraints and physical force restraints. Abuse and neglect does not include the use of restraints or authorized physical restraints force as authorized by law; or allowed by regulation or policy, and performed in such a manner as to be deemed acceptable by approved systems of restraint. Approved systems of restraints includeing, but are not limited to, MANDT, CPI, CAPE, or CCMS. Medical attention shall be provided immediately upon the juvenile's release from restraint as a result of physical force even if there is no visible evidence or complaint of injury. Medical attention shall be provided in an institution by a licensed physician, licensed practical nurse, registered nurse, physician's assistant, or emergency medical technician; or in a group-home or private facility, staff certified in first aid and CPR may provide medical attention and are responsible for referring the juvenile to licensed medical personnel, if warranted.
- (c) <u>Within 24-hours of a When a reportable situation</u>, arises and within 24-hours, each staff member, resident, or other person present during the incident shall prepare and submit to the facility administrator or designee, a written incident report describing what the person saw or heard. The facility administrator, shall ensure a preliminary assessment is conducted to:
 - (1) assure the safety of any juvenile named in the referral and of other juveniles in the same placement;
 - (2) protect the integrity of any evidence which may be relevant to the allegation, including taking photos following every restraint or act of physical restraint force; and
 - (3) coordinate activities with OCA and any law enforcement authority involved in investigating the allegation.
- (d) The facility administrator shall collect medical records, other documents, and reports that which pertain to the alleged incident, written statements, and any other documentary evidence and place them in a holding file for investigative use by the appropriate investigative authority.
- (e) Caretaker misconduct in OJA secure facilities. Every employee in an OJA secure facility shall report allegations of caretaker misconduct to the OJA AGAdvocate General for investigation and disposition. The AG shall develop a The system for investigation and disposition of such investigation shall be developed by the Advocate General in cooperation with the Executive Director and shall be approved by the Board of Juvenile Affairs. The AGAdvocate General shall determine whether the allegation involves caretaker misconduct.
- (f) Caretaker misconduct in facilities other than OJA secure facilities. Every employee of a facility, other than an OJA secure facility, operated by or through <u>a</u> contract with OJA shall report allegations of caretaker misconduct in accordance with <u>OAC 310:678-3-2DHS Rule 340:2-3-33</u>.
- (g) Educational employees. If the alleged abuse, neglect, or caretaker misconduct involves an employee of a school district that which provides contract educational services to OJA or an OJA-contracted group home, either as a witness or as an accused caretaker, the facility administrator shall notify the principal of the school principal of the nature of the allegation; and name of the assigned investigator. The principal shall advise the employee accordingly then be responsible for advising the employee accordingly and coordinate coordinating with the appropriate investigative authority.
- (h) **Protection or medical treatment.** In the event of alleged abuse, neglect, or caretaker misconduct in a facility, the facility administrator or designee shall assure the protection of the juvenile and obtain medical attention for the juvenile.

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- (i) **Failure to report.** Any employee who fails to report abuse, neglect, or caretaker misconduct, as required by this Section, is subject to disciplinary action under OJA's personnel rules. If it is determined the employee failed to report as required, the Advocate General of OJA AG shall make a referral to the appropriate law enforcement agency as provided by in Title 10A O.S.; § 1-2-101.
- (j) **Interference prohibition.** Any employee who interferes with an abuse, neglect, or caretaker misconduct investigation, or attempts to intimidate or harass a witness, victim, or employee accused of alleged abuse, neglect, or caretaker misconduct through force or fear, or by threatening physical or mental harm to a witness, victim or others, is subject to disciplinary action under OJA's personnel policy and could be subject to criminal prosecution.
- (k) **Contract termination.** A contractor's contract shall be subject to immediate termination for failure to adhere to this subchapter or knowingly allowing an employee to:
 - (1) interfere with an abuse, neglect, or caretaker misconduct investigation;
 - (2) interfere or retaliate against any employee for reporting or cooperating in such investigation; or
 - (3) deny the assigned investigator immediate and direct access to the contractor's employees, facilities, clients, places, or records of any type.
- (l) **Retaliation.** The agency shall ensure <u>the protection</u> of both staff and juveniles who report sexual abuse or sexual harassment or for cooperating in sexual abuse or sexual harassment investigations from retaliation.

377:3-1-26. Advocate General procedures during an abuse, neglect, or caretaker misconduct investigation for other than OJA secure institutions

- (a) Upon receiving a report from OCA concerning an investigation of abuse, neglect, or caretaker misconduct, the <u>AGAdvocate General</u> shall send a copy of the report to the facility administrator <u>and notify the appropriate OJA staff. Executive Director or appropriate Division Director.</u> If a facility administrator is named as an accused caretaker in the allegation, the report shall be forwarded to <u>the facility owner</u>, the Chair of the <u>facility's</u> Board of Directors of the facility or to the Director of the state agency operating the facility.
- (b) If OCA confirms findings of abuse, neglect, or caretaker misconduct, the Advocate General shall request appropriate corrective action within 21 days of the <u>AG'sAdvocate General's</u> receipt of OCA's report.
- (c) Even if abuse, neglect, or caretaker misconduct is not confirmed by OCA, the The AG Advocate General may recommend appropriate measures to the Executive Director appropriate measures to address systemic or individual concerns raised during the course of the OCA investigation.
- (d) Upon receipt of OCA's report, the facility administrator, OJA administration, or <u>AGAdvocate General</u> on behalf of a juvenile who is the subject of the report may request that the DHS-Grievance Abuse Review Committee (GARC) review its findings and return a different result.
- (e) OCA investigative reports, records, files, and audio tapes are considered confidential under Title 10A O.S.; § 1-6-102. See OAC 310:678-7-1.

377:3-1-27. OJA grievance policy

- (a) It is OJA's intent to establish and maintain a fair, simple, and speedy system for the resolution of grievances of all OJA-custody juveniles. The grievance policy and procedure is designed to provide an OJA-custody juvenile with a way to have another person review and, when appropriate, correct problems the juvenile is having. Any grievance regarding allegations of abuse, including sexual abuse and sexual harassment, or neglect, shall be forwarded to the DHS hotline.
- (b) A juvenile, or another person on behalf of a juvenile, may file a grievance regarding:
 - (1) the conditions of confinement, action of staff, and incidents occurring within or under the authority and control of <u>OJA</u>, <u>and</u>the <u>Office of Juvenile Affairs</u>.
 - (2) any decision, behavior, or action by an OJA employee or contractor, or by another juvenile in OJA custody. Any grievance regarding allegations of abuse, including sexual abuse and sexual harassment, or neglect, shall be forwarded to the DHS hotline.
- (c) A grievance may be filed by either a juvenile or by another person on behalf of the juvenile. The juvenile or person filing on behalf of the juvenile shall try to resolve the grievance informally at the local level before he or she submits a formal appeal. The procedures for informally resolving grievances with JSU and in institutions and contract facilities are set forth in OAC 377:3-1-28. If <u>a</u> resolution cannot be achieved through the informal process, the juvenile
- hashttp://hscabreq.oja.ok.gov/hhstravelrequest/views/landing.htmls the right to appeal.
- (d) Staff members shall not in any way discourage any juvenile from filing a grievance or appealing a grievance resolution. The rules in this Section shall not be construed to impinge upon hinder the duties of the Advocate General, Advocate Defender, grievance coordinator, or any designee thereof from fairly and accurately advising a juvenile of his or her rights or alternative means of dispute resolution.
- (e) OJA ensures the quality of the system by maintaining minimuma system of standards and by using an ongoing monitoring program carried out by the Office of Advocate General in conjunction with other OJA Divisions.
- (f) Each OJA and contracted facility shall make its grievance policies and procedures available upon request to any member of the public.
- (g) Each OJA and contracted facility shall post its grievance policies in conspicuous places readily accessible to the juveniles in residence.

about:blank 3/6

- (h) Each OJA and contracted facility shall explain OJA grievance policies and procedures to every resident during intake at the facility.
- (i) Every effort should be made to utilize the correct form, but all grievances must be processed regardless of the form used by the juvenile.
- (j) The secure facility shall permit a juvenile to report sexual abuse or sexual harassment to DHS via the hotline.

377:3-1-28. General Grievance Procedure

(a) Informal grievances.

- (1) Informal grievances are issues relating to daily life at the juvenile's placement, which can be resolved at the facility or local level. Informal grievances include, but are not limited to:
 - (A) grooming and hygiene;
 - (B) clothing;
 - (C) facility cottage cleanliness;
 - (D) food;
 - (E) disrespect not involving threats of harm;
 - (F) restrictions; or
 - (G) routine problems with the JSU,; i.e., for example complaints against a JSU worker.
- (2) A juvenile shall try to informally resolve his or her grievance by talking with the Advocate Defender, supervising employee, or other appropriate staff, excluding a staff member who is the subject of the grievance, within three (3) working days, excluding weekends and holidays, of the incident. If the issue is not resolved the juvenile may submit in writing a brief description of the problem and what efforts have been made to resolve the issue within (7) seven working days, excluding weekend and holidays, of the incident. The grievance should include the name of the person or group with whom the juvenile wants to meet to discuss the problem. The juvenile may put the written information in a designated grievance box or give the grievance to any staff member.
- (3) The grievance must be numbered and logged in a grievance log on the day the grievance is received and distributed to the appropriate staff, excluding a staff member who is the subject of the grievance, for processing and possible resolution.
- (4) The assigned staff shall review each grievance and attempt to resolve the grievance with the juvenile.
- (5) If the grievance is not resolved within (5) five working days (excluding weekends and holidays), the juvenile may seek review by the supervisor.
- (6) The supervisor shall have (10) ten working days (excluding weekends and holidays) from receipt of the review to resolve the grievance.
- (7) If the juvenile does not accept the resolution of the supervisory review, he/she may file a formal grievance, which shall be received within 5 working days (excluding weekends and holidays) from the receipt of the review.
- (8) The grievance log must also indicate the disposition of the grievance and the date of the resolution or the review. OJA Form OJA-AG-2 may be used to facilitate the grievance resolution process.

(b) Formal Grievances

- (1) Formal grievances are those grievances, which are appeals of informal grievances or those which cannot otherwise be resolved at the facility or local level. Issues which cannot be resolved at the facility or local level include, but are not limited to:
 - (A) placement;
 - (B) treatment;
 - (C) psychological services;
 - (D) social services;
 - (E) educational services;
 - (F) recreation; or
 - (G) abuse, neglect, or caretaker misconduct.
- (2) Grievances which contain allegations of abuse, neglect, or caretaker misconduct shall be processed in accordance with 377:3-1-25 and 377:3-1-26.
- (3) Formal grievances may be filed with any staff member, excluding a staff member who is the subject of the grievance, but shall be routed to the Advocate General for appropriate distribution and resolution by OJA State Office as set forth in paragraph (c) of this section. Form OJA-AG-3 may be used to facilitate the formal grievance process.
- (c) **Emergency Grievances.** Any situation where the juvenile believes that he or she is subject to substantial risk of imminent sexual abuse, may file a grievance as an emergency grievance. Immediately upon the discovery that an emergency grievance has been filed, the emergency grievance shall be forwarded to the superintendent or designee, who may take corrective action within 48 hours.
- (d) **Grievances received by Advocate General.** Upon receipt of an appeal of an informal grievance or formal grievance, the Advocate General's Office shall post the date of receipt. The Advocate General shall review the grievance and the accompanying documentation to determine what additional information is necessary for disposition of the grievance within five (5) working days and set deadlines for receipt of required information. If the Advocate General finds that an appeal or formal grievance was prematurely filed, the Advocate General shall send a reply containing suggestions regarding the proper procedure to the person that sent the grievance. The Advocate General shall review the applicable OJA rules, policy, and/or Oklahoma law to determine if the appeal or formal grievance is appropriate and provide an opinion regarding possible resolution.

about:blank 4/6

- (e) Appeal to the Division Director/final decision. The Advocate General shall prepare a cover worksheet or memorandum for the appeal or formal grievance and forward a copy to the Division Director/designee for response. The response shall be completed within ten (10) working days (extension may be granted by the Advocate General where a formal, legal opinion or policy decision is necessary). Upon receipt of the proposed resolution, the Advocate General shall forward a copy to the juvenile and/or to other appropriate person named in the grievance and to the appropriate advocate defender or grievance coordinator. A copy of the resolution shall be inserted in the juvenile's master file. Resolutions, which will change or create OJA rules, are submitted to the appropriate division responsible for drafting new or revised rules. The Advocate General shall ensure that resolutions containing directives for specific action are completed.
- (f) **Board notification.** All matters referred to the Division Director for final decision may be placed on the agenda for the next, regularly scheduled meeting of the Board of Juvenile Affairs upon authorization of the Executive Director. If the Executive Director denies the request the OJA Board shall be informed. The Executive Director shall review any such grievance with the Board during Executive Session. At that time, the Advocate General will be allowed to voice concerns, the wishes of the juvenile, or such other matters as are relevant to the Board's understanding of the issues presented in the appeal.
- (g) **Review by juvenile.** The grievance coordinator, Advocate Defender, or Advocate General (whoever filed the last grievance), shall review the Division Director's resolution with the juvenile and notify the juvenile that his or her administrative remedies have been exhausted. If the juvenile does not accept the resolution, a copy of the grievance, appeals, and proposed resolutions shall be forwarded to the Office of Juvenile Systems Oversight.
- (h) Grievances originated by the Advocate General. The Advocate General may, on behalf of all or part of the juveniles committed to OJA, originate a grievance at the State Office level concerning:
 - (1) the substance or application of any written or unwritten policy, rule, or regulation of:
 - (A) OJA;
 - (B) an agent of OJA; or
 - (C) an OJA contractor; or
 - (2) any decision, behavior, or action of
 - (A) an OJA employee;
 - (B) an agent of OJA;
 - (C) an OJA-contractor; or
 - (D) any other person committed to OJA.
- (i) The Advocate General may write the grievance by way of a detailed memorandum.
- (h)(j) The appropriate Division Director and Advocate General may determine there is misuse of the grievance process. Types of misuse, include, but are not limited to:
 - (1) Grievances intended to harass another;
 - (2) The continual and repeated submitting of frivolous grievances (frivolous grievances are those with no basis in fact or law);
 - (3) The repeated submitting of grievances about an issue, which has been adequately and completely addressed by staff.
 - (4) If misuse of the process is determined, the juvenile will be notified in writing, citing the above listed reason or reasons the grievance will not be processed through the grievance procedure. A copy of the determination will be placed in the offender's field file, Advocate General's and Advocate Defender's file. The agency may discipline a resident for filing a grievance related to alleged sexual abuse only where the agency demonstrates that the resident filed the grievance in bad faith.
- (i)(k) Non-grievable issues include;
 - (1) any appeals finalized and resolved by the disciplinary hearing process shall not be processed through the grievance process, or
 - (2) Requests for disciplinary action against staff.
- (j)(1) At any level of the administrative process, including the final level, if the juvenile does not receive a response within the time allotted for reply, including any properly noticed extension, the juvenile may consider the absence of a response to be a denial at that level.

377:3-1-31. Monitoring and evaluation

The purpose of this section is to describe the process by which the Advocate General monitors and evaluates group home and institutional grievance systems.

- (1) The grievance coordinator or advocate defender may request a personal visit with the Advocate General <u>as needed</u> on an <u>as-needed basis</u>.
- (2) If the grievance coordinator or advocate defender becomes aware of any program deficiencies or service program omissions that which result in individual group home or community-based problems, the grievance coordinator or advocate defender shall write a special report to the Office of the Advocate General about the program deficiencies or omissions. The grievance coordinator or advocate defender shall write the special report even when a grievance has not been filed. The grievance coordinator or advocate defender shall send copies of the report to the group home supervisor and the affected Division Director. The grievance coordinator or advocate defender shall maintain the master grievance log and grievance files and shall report grievance statistical information to the Office of Advocate General monthly.

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(3) The grievance coordinator or advocate defender shall maintain the master grievance log and grievance files and shall report grievance statistical information to the Office of Advocate General monthly.

377:3-1-32. Notice to the Executive Director

The Advocate General shall <u>notify</u>keep the Executive Director timely and closely advised of any action taken by or initiated at the request of the Advocate General. The Advocate General shall forward copies of all reports, memoranda, or correspondence to the Executive Director which is originated by or at the request of the Advocate General. The Advocate General shall also meet with the Executive Director when necessary to brieffor the purpose of briefing the Executive Director regarding concerns, issues, or observations noted by the Advocate General in the performance of his or her duties.

377:3-1-33. Coordination with other OJA divisions [REVOKED]

- In carrying out his or her duties, the Advocate General shall coordinate his or her activities with the Agency divisions by:
 - (1) gathering information and observations needed for oversight activity;
 - (2) producing and distributing reports documenting findings of visits including identifying areas of noncompliance; and
 - (3) communicating and coordinating to improve planning, programs, and policy based upon information and findings resulting from monitoring activities.

377:3-1-34. Coordination with other monitoring entities [REVOKED]

(a) The Advocate General shall coordinate with the Department of Human Services' Office of Client Advocacy, the Oklahoma Commission on Children and Youth's Office of Juvenile System Oversight, or such other government entities which possesses overlapping or concurrent jurisdiction of OJA juveniles or placements, in conducting the Advocate General's activities. The Advocate General shall perform the following functions with these entities:

- (1) communicate and coordinate, whenever possible, the scheduling of on-site visits to programs and facilities to control disruptions of operations by monitoring entities;
- (2) compare and consolidate program information and data needed to minimize duplicate requests;
- (3) provide copies of Advocate General reports or grievances when requested;
- (4) meet with staff to discuss issues that are of common concern to all offices; and
- (5) receive reports from said agencies which raise issues of concern affecting OJA juveniles or policy.

(b) Title 21 O.S., § 870 requires every person having reason to believe that a person or child-placing agency is engaging in the crime of trafficking in children to make an immediate report to the Oklahoma Bureau of Narcotics and Dangerous Drugs Control. An employee who, in good faith and exercising due care, has reason to believe that a person or child-placing agency is engaging in the crime of trafficking in children shall make an immediate report, as required by 21 O.S., § 870 and to the OJA Office of Advocate General when:

- (1) the employee has reason to believe that such crime has been committed, or
- (2) a child, parent, guardian, or other person makes an allegation of such crime.

377:3-1-35. Conflict of interest [REVOKED]

If the Advocate General determines that a conflict of interest may affect his or her ability to proceed in a certain matter, he or she shall immediately refer the case to the Executive Director for appropriate action which may include referral to the Advocate General of the Department of Human Services.

377:3-1-36. Mandatory annual review of rules [REVOKED]

Rules for the Office of the Advocate General shall be reviewed annually by the Advocate General and appropriate staff. The Advocate General shall present recommendations for approval of any rule modification, amendment, or deletion to Board of Juvenile Affairs no later than the December Board meeting of each successive year.

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CHAPTER 3. ADMINISTRATIVE SERVICES

SUBCHAPTER 3. OFFICE OF GENERAL COUNSEL SERVICES

PART 1. GENERAL PROVISIONS

377:3-3-1. Purpose [REVOKED]

The purpose of this Subchapter is to describe the functions and responsibilities of the Office of General Counsel Services.

377:3-3-2. Legal base [REVOKED]

The statutory authorization for the Office of General Counsel Services is found in 10A O.S., § 2-7-201(D).

377:3-3-3. Duties and responsibilities [REVOKED]

The Office of General Counsel Services provides legal services to the Office of Juvenile Affairs (OJA), and members of the Board of Juvenile Affairs acting in the scope of their official capacities, the Executive Director of the Office of Juvenile Affairs (OJA), the Chief of Staff of OJA, and all other OJA employees acting in the course or scope of their employment.

SUBCHAPTER 5. OFFICE OF HUMAN RESOURCES MANAGEMENT

PART 1. OVERVIEW OF THE OFFICE OF HUMAN RESOURCES MANAGEMENT

377:3-5-1. Purpose [REVOKED]

- (a) The purpose of this subchapter is to set forth the rules governing the operation of the Office of Human Resources Management. The rules in this Chapter are authorized by the authority of the Office of Juvenile Affairs as set forth in Title 10A O.S., § 2-7-101(I) (2), Oklahoma Personnel Act, 74 O.S., § 840-1.1 et seq., and Oklahoma State Merit Rules.
- (b) The purpose of the Office of Human Resources Management (OHRM) is to provide comprehensive human resource management and development programs which support the achievement of the agency's mission, values, and goals. The Office of Human Resources Management programs focus on recruiting, retaining, and developing qualified agency staff.

377:3-5-2. Duties & Responsibilities of the office of Human Resources Management [REVOKED]

Office of Human Resources Management shall insure that OJA follows all State and Federal Laws governing Human Resources Management of State Agencies. OHRM shall follow all rules as outlined by Title 74 O.S. § 840.1.1 et seq. Oklahoma Personnel Act; Oklahoma Administrative Code Title 455 Merit Protection Commission, Chapter 10; and Title 530 Office of Personnel Management, Chapter 10.

PART 3. OFFICE OF HUMAN RESOURCES MANAGEMENT- PERSONNEL PROGRAMS

377:3-5-12. The Office Of Juvenile Affairs promotional plan [REVOKED]

- (a) Promotional policy. The Office of Personnel Management (OPM) requires that each state agency shall post vacancies in a particular job family in accordance with a promotional plan filed by the agency with OPM (530:10-11-51). The Office of Juvenile Affairs (OJA) shall follow this plan when posting and filling classified positions. The OJA promotional plan is designed to provide employees with opportunities for career growth and advancement. No person shall be discriminated against because of race, sex, age, color, creed, religion, political affiliation, national origin, or disability [74 O.S. §840-2.9(A)].
- (b) **Posting decision.** The Executive Director or designee shall make the decision to fill a vacancy, whether classified or unclassified, and post a notice. When continuous, multiple vacancies are anticipated, general promotional opportunities may be posted. [74 O.S. §840- 4.15(B)].
- (c) Agency Selection Process. The Office of Juvenile Affairs shall conduct the selection process of applicants in accordance with (OPM) requirements, state and federal laws. Applicants may be required to participate in other selection and assessment procedures.
 - (1) A personal background investigation shall be conducted, which may include civilian and military court records. Background investigations will be conducted in compliance with Title 10 O.S. §404.1A.
 - (2) Applicant drug testing may be required in accordance with 377:3-11-1 though 377:3-11-12.

377:3-5-13. Office of Juvenile Affairs Services Fair Labor Standards Act [REVOKED]

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CHAPTER 3. ADMINISTRATIVE SERVICES

SUBCHAPTER 7. FINANCE DEPARTMENT

377:3-7-1. Legal basis and purpose

- (a) The Office of Juvenile Affairs (OJA) Finance Division is designated by OJA to conduct OJA's financial matters. OJA shall follow:
 - (1) Oklahoma state statutes;
 - (2) procedures of the Office of Management and Enterprise Services;
 - (3) procedures of the Office of State Treasurer;
 - (4) procedures from federal grantor agencies; and
 - (5) generally accepted accounting principles.
- (b) <u>Section 2-7-304 of Title 10A</u> of the Oklahoma Statutes, O.S., § 2-7-304, authorizes the OJA to enter into financial agreements with governmental entities or private agencies for juvenile delinquency prevention and treatment programs.
- (c) The purpose of this subchapter is to set forth rules for the Office of Juvenile Affairs' (OJA) Finance Division.
 - (1) The OJA Finance Division shall properly manage the OJA annual budgeting process and account for OJA funds and other assets, including facilities and materials, in accordance with state laws and procedures.
 - (2) The OJA Finance Division shall manage the OJA budgeting process.

377:3-7-2. Purpose [REVOKED]

The purpose of this subchapter is to set forth rules for the Office of Juvenile Affairs' (OJA) Finance Division.

- (1) The OJA Finance Division shall properly manage the OJA annual budgeting process and account for OJA funds and other assets, including facilities and materials, in accordance with state laws and procedures.
- (2) The OJA Finance Division shall manage the OJA budgeting process.

377:3-7-3. Regulatory authority [REVOKED]

The Office of Juvenile Affairs shall follow:

- (1) Oklahoma state statutes;
- (2) procedures of the Office of Management and Enterprise Services;
- (3) procedures of the Office of State Treasurer;
- (4) procedures from federal grantor agencies; and
- (5) generally accepted accounting principles.

377:3-7-4. OJA financial system [REVOKED]

The financial system established and maintained by the Office of Juvenile Affairs shall comply with state statutes and guidelines or requirements established by the Office of Management and Enterprise Services, State Treasurer, State Auditor and Inspector, and federal grantor agencies. Changes to OJA procedures related to financial matters shall be provided to the Finance Subcommittee of the Board of Juvenile Affairs for review, and then subsequently to the full Board of Juvenile Affairs.

SUBCHAPTER 9. OFFICE OF POLICY

PART 7. POLICY AND ACCREDITATION

377:3-9-40. Legal basis

The Board of Juvenile Affairs, pursuant to 10A O.S. § 2-7-101-(F)(2), shall be the rulemaking body for OJA. OJA shall follow the rulemaking requirements in accordance with pursuant to the Oklahoma Administrative Procedures Act (APA);. See Title 75 O.S. § 250 et seq. The General Counsel, designee, manages OJA's rules and procedures; serving as a link between the program, administrative, and legal functions of OJA and OJA's rules and policies. Public hearings will be held in accordance with 75 O.S. § 303(C).

377:3-9-41. Purpose [REVOKED]

The General Counsel, designee, manages OJA's rules and procedures; serving as a link between the program, administrative, and legal functions of OJA and OJA's rules and policies.

377:3-9-42. Public hearings [REVOKED]

Public hearings will be held in accordance with 75 O.S. § 303(C).

377:3-9-43. Availability of OJA rules, policies, and procedures

In accordance with the Open Records Act, 51 O.S. § 24A.1 *et seq.*, all OJA rules, policies, and procedures are available upon request. Requests should be submitted by letter to the Office of Juvenile Affairs, Attention: General Counsel, 3812 North Santa Fe Avenue, Suite 400, Oklahoma City, OK 73118, by telephone call 405-530-2800 and ask to speak with the General Counsel, or via email at records@oja.ok.gov.

377:3-9-44. Petitions for the promulgation, amendment, or repeal of rules

- (a) **Submission.** Any person may petition OJA requesting the promulgation, amendment, or repeal of a rule. The person making the request shall submit via email to records@oja.ok.gova petition to the Office of Juvenile Affairs, by mailing or delivering the petition to the Office of Juvenile Affairs, Attention: General Counsel, 3812 North Santa Fe Avenue, Suite 400, Oklahoma City, OK 73118. A petition mailed to OJA is considered submitted upon receipt by the General Counsel. A designated staff member shall stamp the petition upon receipt to show the date of submission.
- (b) **Form.** The petitioner shall submit the petition in the form given in paragraphs 1 5 below.
 - (1) The petition must contain a clear statement of the action requested and the solution desired as a result of the request.
 - (2) When the petition seeks to amend or repeal an existing rule, the existing rule must be identified in the petition in the following format OAC Title: Chapter-Subchapter-Part. If the petition is submitted electronically, please hyperlink the current rule in the petition. If the petition is submitted via mail, please include a copy of the current rule.
 - (3) The petition must contain a statement of the facts supporting the requested rule or rule change, including any legal grounds, if known, and other relevant information or views on which the petitioner relies. A copy of any reference or source cited in the statement must be submitted or hyperlinked with the petition unless the reference or source is readily available to OJA. When a petition requests more than one rule change, a single statement that which supports and justifies each proposed change meets the requirements of this subsection.
 - (4) The petition must describe, if known, who most likely will be affected by the proposed change.
 - (5) The petition must be signed by the petitioner or his/her authorized representative, and contain the printed name, address, email, and day-time telephone number of the petitioner or his/her authorized representative.
 - (6) A petitioner may supplement or revise a petition at any time <u>before</u> approval by the Executive Director or submission of the proposed change to the Board. However, if significant changes are made, the petitioner should withdraw the petition and submit a revised petition.
- (c) **Notification of receipt.** The General Counsel, or designee, shall <u>notifysend</u> the petitioner notification of receipt of the petition within five (5) working days after receipt.
- (d) Consideration and disposition. In accordance with 75 O.S. § 305, if rulemaking action has not occurred by the 30th day after receipt of the petition, the petition shall be deemed denied. Within fourteen (14) calendar days after the submission of the petition, the General Counsel, or designee, shall review the request and recommend the Executive Director:
 - (1) approve the petition for Board action;
 - (2) deny the petition, in whole or in part, on any of the following grounds:
 - (A) the petition requests promulgation of a rule that OJA clearly lacks authority to promulgate;
 - (B) the petition requests a rule or rule change inconsistent with any applicable statutory or constitutional authority;
 - (C) the petition requests promulgation, amendment, or repeal of an OJA policy that does not constitute a rule as defined in the Oklahoma Administrative Procedures Act;
 - (D) the petition is frivolous and not pursued in good faith; or
 - (E) the petition is not feasible, taking into consideration available and anticipated agency resources for the category of the subject matter of the proposed change and the public policy or other grounds supporting the proposed change; or
 - (F) for other just cause; or
 - (3) request additional material from the petitioner.
- (e) **Executive Director responsibilities.** The Executive Director, or designee, shall send the recommendation and other pertinent material to each member of the Board within two (2) calendar days of decision.
 - (1) If the next regularly scheduled Board meeting falls within twenty (20) calendar days of receipt of the petition, the Executive Director, or designee, shall ensure that the petition is placed as an action item on the agenda of the Board's next regularly scheduled meeting.
 - (2) If the next regularly scheduled Board meeting does not fall within thirty (30) calendar days of receipt of the petition, the Executive Director, or designee, shall notify the Board. The Board may chooseto call a Special meeting, in accordance with OAC 377:1-1-5(b) within the thirty (30) day time period to consider the petition.
- (f) Responsibilities of the Board of Juvenile Affairs. The Board shall decide whether to approve or deny the petition.
- (g) **Notification of approval or denial of petition.** The General Counsel, or designee, shall notify the petitioner of the decision to approve or deny the petition within thirty (30) days of receipt of the petition.
- (h) **Rulemaking process.** If the Board approves the petition, the General Counsel, or designee, shall initiate OJA's rulemaking process.
- (i) **Notice to petitioner.** If the petitioner does not attend the Board meeting in which the vote on the rule revision is made, the General Counsel, or designee, shall provide written notice within five (5) working days after the Board's meeting of the Board's

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CHAPTER 3. ADMINISTRATIVE SERVICES

SUBCHAPTER 13. OFFICE OF PUBLIC INTEGRITY

PART 1. GENERAL PROVISIONS

377:3-13-1. General purpose, legal basis and authority

- (a) **Purpose.** Public Integrity division within OJA is directly responsible, organizationally and administratively, to conduct investigations, performs on-site assessments, licensing visits, and financially monitors OJA state contracts, functions and activities to ensure compliance with, state statutes, OJA policies/procedures, contractual provisions, and other applicable professional rules and standards. The division is composed of three sections: (1) Internal Affairs/Employment Discrimination Investigations; (2) Licensing and Programs Assessment Section; and (3) Financial Contract Monitoring/Reviews Section, each section is under the supervision of the Executive Director, or designee..
 - (1) Internal Affairs/EEO Investigations division may among other activities and functions include investigations of:
 - (A) Criminal investigations;
 - (<u>B</u>) Allegations of serious misconduct and/or criminal violations committed by OJA personnel as assigned to the division by the Executive Director, or designee;
 - (<u>C</u>)(<u>B</u>) Allegations of discrimination (Equal Employment Opportunity) either by or against OJA employees as received and assigned by the affirmative action officer, or the agency's grievance manager, Executive Director, or designee; and
 - (<u>D</u>)(<u>C</u>) Specifically assigned Caretaker Conduct Reviews (CCR) that are returned to the OJA_operated juvenile institutions by the Oklahoma Department of Human Services' Office of Client Advocacy (OCA) or other entity as prescribed by law for administrative review, as well as major incidents (i.e. serious assaults, riots, escapes) that occur at OJA operated institutions.
 - (2) Licensing and Programs Assessment division includes the licensing and assessing of the following:
 - (A) On-site licensing and unannounced monitoring visits to OJA state_contracted juvenile detention centers, community intervention centers (CIC) and municipal juvenile detention facilities, See OAC 377-3-13-6;
 - (B) Announced and unannounced assessments of contracted residential care, non-residential services and shelters as directed by the Executive Director, or designee.
 - (C) On-site assessments and licensing of a Secure Juvenile Facility; and
 - (D) On-site or electronic assessments of the Juvenile Services Unit (JSU) offices located throughout the state;
 - (<u>D</u>)(<u>E</u>) Assessments of State Office units as directed by the Executive Director, or designee;
 - (3) Financial Contract Monitoring/Review division includes but is not limited to the financial monitoring of the following:
 - (A) Secure Juvenile Facilities;
 - (B) OJA contracted detention centers and community intervention centers;
 - (C) OJA contracted residential care and shelter services as directed by the Executive Director, or designee;
 - (D) OJA contracted non-residential services provided by designated youth services agencies; by performing
 - (i) On-site contractor visits to reconcile claims against supporting documentation with a documented recommended corrective action, if appropriate;
 - (ii) Reviews of reimbursed claims for payment by OJA, to include: compliance with contract requirements; applicable laws, rules and regulations; and adequate supporting documentation.
 - (E) In addition to the above duties, the financial contract monitoring/review section shall perform in-depth financial audits as directed by the Executive Director, or designee.
- (b) **Legal Basis/Authority.** Authorization for the monitoring/assessment functions is found in 10A O.S. § 2-7-301(E)(1)(c). Authorization for detention certification is found in 10A O.S. § 2-3-103(C)(1). Authorization for certification of community intervention centers (CIC) is found in 10A O.S. § 2-7-305(D)(1).
- (c) **Unit Independence.** Communication and coordination with agency and contractor personnel is necessary and desirable during the investigative, assessment, and monitoring procedures.
- (d) Frequency of Assessments/Monitoring.
 - (1) Announced certification assessments of contracted facilities, i.e. detention centers and community intervention centers, and municipal juvenile detention facilities shall occur on a bi-annual basis, with announced annual inspections during the interim year. Unannounced assessments shall occur at the direction of the division supervisor or Executive Director. Announced assessments of JSU in each county of the state shall occur on a bi-annual basis and unannounced assessments as requested by the Juvenile Services Division Director with approval of the Executive Director, or designee. Program assessments of OJA institutions, State Office units, contracted residential care facilities, non-residential services and shelters as directed by the Executive Director, or designee.
 - (2) OJA contracts with the youth services agencies shall be monitored at a minimum of twice per fiscal year. Other contracted facilities and services, OJA institutions, and State Office units shall be monitored at the direction of the Executive Director.

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377:3-13-2. Internal affairs investigations

- (a) The Internal Affairs/EEO Investigations division is responsible for conducting internal investigations of agency personnel who have been accused of serious misconduct and/or criminal behavior while on or off duty. Serious misconduct is defined as any violation of laws, policies, rules, or procedures that, if proven, could result in disciplinary actions of, suspension without pay, demotion, involuntary transfer, or termination of employment. The Internal Affairs/EEO Investigations division investigates only those internal misconduct allegation cases that have been assigned by the OJA Executive Director, or designee.
- (b) The Internal Affairs/EEO Investigations division is also responsible for conducting Equal Employment Opportunity (EEO) (discrimination) investigations as a result of complaints/grievances filed by OJA employees and/or clients. The Executive Director, or designee; grievance manager, or the affirmative action officer may assign EEO (discrimination) complaints or grievances to the Internal Affairs/EEO Investigations division for investigation.
- (c) The Internal Affairs/EEO Investigations division shall ensure there is a minimum of one state_certified EEO investigator on its staff to investigate EEO (discrimination) complaints or grievances. The EEO (discrimination) investigator(s) shall maintain state EEO investigator certification by attending the required number of hours of annual training as mandated by OAC 260-25-3-22 and 260-25-3-26.

PART 3. REQUIREMENTS FOR SECURE JUVENILE DETENTION CENTERS

377:3-13-43. Staff requirements

- (a) General provisions. The requirements for facility staff are set forth in this Section.
 - (1) **Personnel policy.** Every facility shall have written personnel policy which includes the maintenance of personnel records. The facility director shall make available to employees personnel policy and written job descriptions. The policy and job descriptions specify the person to whom the employee is responsible and the duties the employee is expected to perform.
 - (2) **Juveniles' tasks.** A juvenile in detention shall not be used as an employee. A juvenile in detention is permitted to perform tasks, if the tasks teach the juvenile responsibility and the juvenile is supervised. A juvenile shall be allowed to perform tasks (chores) in any area (restricted to the facility) in which adequate security exists. The facility administrator shall approve all work assignments.
 - (3) **Supervision.** Sufficient staff shall be available to provide continuous day and night supervision of the residents and protection of the facility as well as to allow staff relief from duty.
 - (4) **Auxiliary staff.** There shall be sufficient auxiliary staff to maintain adequate support services. Auxiliary staff are all staff that are not direct-care staff.
 - (5) **Health requirements.** Staff health requirements are given in (A)-(B) of this paragraph.
 - (A) Each person employed must be physically fit and able to perform all job functions necessary to ensure the health, safety and well-being of the juveniles in their care. A physical examination by a licensed physician may be requested should the employee's ability to perform their mandatory job functions be in question.
 - (B) Testing for tuberculosis is not required on a routine basis. Tuberculin skin testing shall be required when there is a local identified tuberculin exposure identified by the Oklahoma State Department of Health.
 - (i) When a tuberculin skin test is required, employees with a positive skin test reaction must submit documentation by medical personnel that signs or symptoms of tuberculosis are not present.
 - (ii) An employee who has ever had a positive skin test reaction must have or provide documentation of a chest x-ray. Additional tests or x-rays are not required unless symptoms develop that are suggestive of tuberculosis.
 - (6) **Background history records searches.** OJA, through direct request, shall require a records search for each applicant for employment, which shall include the following:
 - (A) OJA shall make a direct request for background searches to be conducted on behalf of any:
 - (i) operator or responsible entity making a request to establish or operate a secure detention center, municipal juvenile facility, community intervention center or secure facility licensed or certified by OJA,
 - (ii) employee or applicant of a secure detention center, municipal juvenile facility, community intervention center or secure facility licensed or certified by OJA, or
 - (iii) persons allowed unsupervised access to children, including contract employees or volunteers, of a secure detention center, municipal juvenile facility, community intervention center or secure facility licensed or certified by OJA;
 - (B) a national criminal history records search based upon submission of fingerprints that shall be provided by the Oklahoma State Bureau of Investigation (OSBI), including Rap Back notification, and the Federal Bureau of Investigation (FBI), pursuant to National Child Protection Act, 42 U.S.C. § 5119a, and 74 O.S. § 150.9, provided both the OSBI and FBI act in their designated role;
 - (C) a search of the Oklahoma State Courts Network (OSCN) including Oklahoma District Court Records (ODCR);

about:blank 2/13

- (D) a search of the Department of Human Services (DHS) Child Care Restricted Registry, also known as Joshua's List:
- (E) a search of the Department of Corrections (DOC) Sex Offender Registry;
- (F) a search of the DOC Violent Offender Registry, also known as the Mary Rippy Violent Crime Offenders Registry;
- (G) a search of all applicable out-of-state child abuse and neglect registries if the applicant has not lived continuously in Oklahoma for the past five (5) years;
 - (i) The prospective applicant is not approved without the results of the out-of-state maintained child abuse and neglect registry checks, when a registry is maintained in the applicable state;
 - (ii) When no child abuse and neglect registry is maintained in the applicable state, the facility shall request any information that can be provided; and
- (H) a criminal history records search conducted by an authorized source, when an applicant has lived outside the United States within the last five (5) years.
- (7) **Criminal history investigation.** The facility shall not employ or retain any person for whom there is documented evidence that the employee would endanger the health, safety, and/or well-being of juveniles.
 - (A) A facility shall not employ or retain an individual who has been:
 - (i) convicted of or entered a plea of guilty or nolo contendere to any felony involving:
 - (I) violence against a person;
 - (II) child abuse or neglect;
 - (III) possession, trafficking, manufacturing, sale or distribution of illegal drugs, or conspiracy to traffic, manufacture, sale, or distribute illegal drugs;
 - (IV) sexual misconduct;
 - (V) gross irresponsibility or disregard for the safety of others;
 - (VI) any crime against a child; or
 - (ii) in the case of child abuse and neglect, identified as a perpetrator in a juvenile court proceeding and/or has made an admission of guilt to a person authorized by state or federal laws or regulations to investigate child abuse and neglect.
 - (B) As to the offenses identified in subsection A(i)(III) and (V)a simple drug possession offender, the facility may, at its own discretion, make exceptions to the prohibition of employment if five (5) years have passed from completion of the applicant's criminal sentence and the facility can document that the health, safety, and well-being of juveniles would not be endangered.
 - (i) The facility shall consider, document, and submit to the Licensing and Programs Assessment division within ten (10) days of the employees first day of work the:
 - (I) type of crime or offense for which the individual was convicted or a finding was made; and
 - (II) reference letters concerning the individual in question.
 - (ii) The Licensing and Programs Assessment division may make a recommendation to the facility administrator as to whether the applicant for employment should be approved or disapproved.
 - (C) If there is an allegation that a staff member has committed an act as described in OAC 377:3-13-43(a)(7)(A), the facility shall determine and document whether the staff member shall be removed from contact with juveniles until the allegation is resolved.
 - (D) If any person is formally charged with any of the offenses described in OAC 377:3-13-43(a)(7)(A), notification must be made to the OJA Licensing and Programs Assessment division, and the employee must be removed from contact with juveniles until the charges are resolved.
 - (E) No employee of the facility shall use or be under the influence of alcohol or illegal drugs during hours of work nor shall any employee use or possess illegal drugs at any time.
- (8) **Personnel records.** The facility shall keep on file a written personnel record available for review for every staff person employed by the facility.
 - (A) The personnel record includes, but is not limited to:
 - (i) an application, resume or staff information sheet that documents qualifications for the position, valid driver's license or other state ID, birth certificate, applicable educational diploma;
 - (ii) health records as required by the facility;
 - (iii) three (3) written references and/or documentation of telephone interviews;
 - (iv) any reports and notes relating to the individual's employment with the facility and an annual job performance evaluations;
 - (v) dates of employment; and
 - (vi) date and reason for leaving employment.
 - (B) When employment is involuntarily terminated, a statement regarding the reason for termination is to be included in the personnel file.
 - (C) Personnel records are maintained for at least three years following a staff member's separation.
 - (D) All employees' records are kept confidential subject to existing state and federal statutes.

about:blank 3/13

- (E) Staff members shall have access to their personnel files for reviewing purposes if a request is made to the facility administrator.
- (9) **Staff training.** All staff shall be trained on facility policy and procedure and a training record be established for each staff member. A record of all annual training shall be maintained. At the end of the year, it shall become part of the personnel record.
 - (A) Each direct-care staff member shall be provided orientation before being allowed to work independently.
 - (B) Auxiliary staff shall receive orientation to the facility's policy and procedure and to their assigned duties.
 - (C) During orientation the trainer shall acquaint staff with the philosophy, organization, program practice, and goals of the secure juvenile detention facility.
 - (D) "Requirements for Secure Juvenile Detention Facilities" is reviewed as a part of the orientation process and is available to staff at all times.
 - (E) Within ninety (90) days of employment, by a detention facility, all direct-care staff shall have successfully completed a specific course of instruction in first aid as established by the Red Cross, ASHI, AHA, and presented by a certified instructor, or by a certified instructor in an equivalent professionally recognized first aid training program. There shall be a certificate or card issued to the employee and this card must be signed by the certified instructor attesting to the employee's successful completion of the professionally recognized first aid training program. The Red Cross, ASHI, AHA, or its equivalent, first aid course of instruction, presented by a certified instructor shall be updated within the employee's third year of employment and each succeeding three-year increment. The first aid training may count towards the employee's required annual training hours.
 - (F) Within ninety (90) days of employment by a detention facility, all direct-care staff shall be certified in have successfully completed an approvedcourse of instruction in cardiopulmonary resuscitation (CPR) as established by the Red Cross, ASHI, AHA, or its equivalent. This training must be presented by a certified instructor, or by a certified instructor in an equivalent professionally recognized CPR training program. There shall be a certificate or card issued to the employee and this card must be signed by the certified instructor attesting to the employee's successful completion of the professionally recognized CPR training program. The Red Cross, ASHI, AHA, or its equivalent CPR course of instruction shall be presented by a certified instructor. Employees will maintain their certification, as required by the certifying entity. The CPR training may count towards the employee's required annual training hours.
 - (G) Full-time direct-care staff and administrators shall obtain at least 24 hours of training per employment year. Hours are prorated at two hours per month for staff who have not been employed for a full year.
 - (H) Part-time direct-care staff shall have training hours prorated based on the average number of hours of work per month.
 - (I) On-call staff shall have a minimum of six (6) hours of training per year.
 - (J) Support staff shall obtain a minimum of twelve (12) hours of training per employment year.
 - (K) The content of staff development courses for direct-care staff is relative to their roles and responsibilities. Content may include:
 - (i) crisis intervention;
 - (ii) child development;
 - (iii) behavior management;
 - (iv) discipline;
 - (v) stress management;
 - (vi) therapeutic relationship and intervention;
 - (vii) child abuse detection, reporting and prevention;
 - (viii) suicide prevention;
 - (ix) human sexuality;
 - (x) client grievance procedures;
 - (xi) communicable diseases, including sexually transmitted diseases; and
 - (xii) any other training deemed necessary to meet individual or group training needs.
 - (L) Attendance at professional conferences, workshops, seminars, formal education classes, or in-service training is counted toward the training requirements provided the training is documented and meets the content requirements.
- (b) **Facility Administrator.** The duties and qualifications of the facility administrator are described in 1 2 of this subsection.
 - (1) **Responsibilities.** The facility administrator is responsible for implementing the policies adopted by the governing body, the ongoing operation of the facility, and compliance with the Requirements for Secure Juvenile Detention Facilities.
 - (A) In the facility administrator's absence a person shall be designated to act as administrator and shall be available to detention staff in person or by telephone.
 - (B) A designated person of responsibility shall be at the secure juvenile detention facility at all times. The designated person is directly responsible to the administrator who is to be notified of any irregularities in the general affairs of detention and follow through with directives given.
 - (C) The duties of the facility administrator include, but are not limited to:
 - (i) preparing and presenting the budget for the appropriate authority to review and approve;

about:blank 4/13

- (ii) administering the budget and maintaining accurate financial records;
- (iii) employing and discharging staff according to the established personnel rules;
- (iv) supervising the program overall;
- (v) holding staff meetings on a monthly basis to discuss plans and interpret policies to the staff;
- (vi) organizing a program for the continued training and development of staff;
- (vii) establishing and maintaining working relationships with other social services agencies within the community; and
- (viii) interpreting the program to professional and lay groups.

(2) Qualifications.

- (A) The education, experience, and qualifications of the administrator of a large facility (20 beds or more) are specified in writing by the governing body of the facility and includes, at a minimum:
 - (i) bachelor's degree from an accredited college/university in an appropriate <u>discipline and five (5)</u> <u>years relevant work experience; or</u>
 - (ii) an associate's degree from an accredited junior college, college, or university in an appropriate discipline and seven (7) years relevant work experience two (2) years of experience working with juveniles; orand
 - (iii) ten (10) years relevant work experience five (5) years in staff supervision and administration.
- (B) <u>As used in subsection (2)(A) above, relevant work experience shall include</u> The education, experience, and qualifications of the administrator of a small facility (less than 20 beds) are specified in writing by the governing body of the facility and includes, at a minimum:
 - (i) two (2) years of experience working with juveniles; and associate's degree from an accredited junior college/college/university in an appropriate discipline (i.e. social work, sociology, psychology, criminal justice, etc.); OR
 - (ii) five (5) years in staff supervision and administration. sixty (60) hours of credits from an accredited junior college/college/university of which fifteen (15) hours must be in the appropriate discipline as indicated in (i); and
 - (iii) two (2) years in staff supervision; and
 - (iv) one (1) year of experience working with juveniles.
- (C) A facility administrator hired prior to January 1, 2000 shall be exempt from the rules set forth in (A) of this paragraph.
- (3) Location. All facilities administrators must maintain their primary office at the detention facility.
- (4) No individual(s) shall be allowed to serve as the facility administrator, or their designee, with a confirmed/substantiated finding of abuse or neglect by DHS or other entity authorized by state, federal laws or regulations to investigate child abuse and neglect.
- (c) Direct care staff. The qualifications and hiring requirements for direct care staff are described in (1) (2) of this subsection.
 - (1) **Qualifications.** All direct-care staff shall be at least 21 years of age and possess a high school diploma or its <u>equivalent</u> or obtain a high school diploma or equivalent within the first year of employment.
 - (2) **Hiring requirements.** A direct-care staff person can be hired when the person:
 - (A) has his or her character and fitness attested to by three (3) satisfactory written references and a criminal history background check is conducted as required and in conformance with 377:3-13-43(a)(6);
 - (B) is qualified and capable of satisfactorily performing assigned job responsibilities; and
 - (C) does not pose a known risk to juveniles.
- (d) **Support staff.** Support staff shall be able to read and write; demonstrate knowledge and skills necessary to the job assignments; and meet the requirements for direct-care staff if responsible for direct care of juveniles for any part of the day.

377:3-13-44. Security and control

- (a) The facility shall have policy and procedure for security and control.
- (b) A list of in-house rules, outlining acts prohibited in the facility and the range of disciplinary procedures, is given to all juveniles. The list is posted in a conspicuous and accessible area.
 - (1) Staff members shall explain in-house rules to each juvenile admitted to the facility.
 - (2) When a literacy or language problem prevents a juvenile from understanding the list of rules, a staff member or translator shall assist the juvenile in understanding the rules.
- (c) Required security control procedures are described in 1 15 of this subsection.
 - (1) **Resident count.** The facility shall have a system to physically count detained juveniles.
 - (A) The facility director shall designate one staff member per shift to conduct at least one uninterrupted population count during the shift.
 - (B) The staff member conducting the count shall be a trained employee in each living unit who shall see the juveniles being counted.
 - (C) Juveniles shall not be permitted to move about the facility during the count.
 - (D) Documentation of resident counts is available at the facility at all times.

about:blank 5/13

- (2) **Mail security.** Written policy and procedure provide that a juvenile may send or receive mail without limitation, censorship, or prior reading by staff. Staff may open a juvenile's mail in the presence of the juvenile to inspect for contraband. However, staff shall not read the opened mail.
- (3) **Searches and control of contraband.** The facility shall have written policy and procedure governing searches and control of contraband.
 - (A) Policy and procedure include, but are not limited to:
 - (i) control of contraband;
 - (ii) searches for contraband;
 - (iii) body searches;
 - (iv) property searches;
 - (v) searches of the facility; and
 - (vi) visitor searches;
 - (B) Residents and visitors shall be notified that they are subject to search.
 - (C) No resident shall be searched beyond what is necessary to maintain proper security.
 - (D) Searches are conducted by a staff member of the same sex as the resident or visitor.
 - (E) A body cavity search may be conducted only when there is a strong reason to believe that the juvenile is concealing contraband in a body cavity.
 - (i) The facility administrator must give authorization to medical personnel for any body cavity search.
 - (ii) Medical personnel are the only persons authorized to perform body cavity searches.
 - (iii) The body cavity search must be conducted in a private area of the facility, without windows, which ensures the privacy and dignity of the juvenile.
 - (iv) A supervisory witness of the same sex as the juvenile shall be present during the body cavity search.
 - (v) The detention facility shall contact the OJA Advocate General within 24-hours of conducting a body cavity search.
- (4) **Staff ratios and staffing patterns.** There is a minimum ratio of 1:7 direct-care staff to residents during waking hours and 1:16 during residents' sleeping hours.
 - (A) <u>Direct-care staff are defined as staff on the unit with the juveniles.</u>
 - (B) When a female is placed in detention, there must be a female staff member on duty and when a male is placed in detention, there must be a male staff member on duty;
 - (C)(B) A minimum of two direct-care staff are on duty at all times in the facility.
 - (<u>D</u>)(C) Juveniles in detention shall be supervised at all times. The facility shall have enough staff available for staff to remain close to and in visual contact with the juveniles.
 - (i) If a resident is placed in their room for medical, safety, or behavioral concerns, this will be considered a room confinement and the facility licensing standards on resident visual observation checks will be adhered at all times.
 - (ii) During residents' sleeping hours room checks will be completed not to exceed 30 minutes between checks.
 - (iii) All room checks should be documented daily in an observation log and maintained by the facility.
- (5) **Surveillance plan.** The facility shall have a plan for surveillance of all areas of the perimeter of the facility. Outside lighting must be sufficient to provide visibility under all conditions with no blind spots.
- (6) **Door security.** All doors that are security perimeter entrances, exterior doors, and doors which the facility administrator determines should be locked are kept locked. These doors are unlocked only for admission or exit of juveniles, employees, or visitors or in case of an emergency.
 - (A) Doors to vacant units, unoccupied areas, and storage rooms are kept locked when not in use.
 - (B) Staff members shall know what doors must be locked and under what circumstances they are opened.
 - (C) Once a door is locked, it is checked to see that it is secured.
- (7) **Key control.** The facility's key-control system provides for the following:
 - (A) a log to record the number of keys given out, the location of the lock, the number of keys to that lock, and the names of employees possessing keys;
 - (B) a central administrative area from where the keys can be issued;
 - (C) a manner of storage that permits easy determination of either the presence or absence of keys;
 - (D) labeling of all keys and maintenance of at least one duplicate key for each lock; and
 - (E) readily available fire and emergency keys.
- (8) **Physical force.** Rules relating to the use of physical force are set forth in this paragraph.
 - (A) Written policy and procedure limit the use of physical force:
 - (i) for self-protection;
 - (ii) to separate juveniles from fighting;
 - (iii) to restrain juveniles in danger of inflicting harm to themselves or others; and
 - (iv) to restrain juveniles who have escaped or who are in the process of escaping;
 - (B) The least amount of force is used.
 - (C) Physical force may not be used as punishment or retaliation.

- (D) Facility personnel shall not encourage or knowingly permit any person to use physical force which is contrary to policy.
- (E) Staff members shall not provoke physical confrontation by taunting, harassing, or cursing a resident or otherwise manipulating a resident into activities which would justify physical force.
- (F) A written report is prepared following all uses of force and submitted to the facility administrator by the end of the shift detailing the incident which initiated the use of force, the type of force used and the beginning and end time of the use of force.
- (G) Staff members shall receive written guidelines on the use of physical force and shall be informed that loss of employment may result if unauthorized use of physical force is proven.
- (H) Medical attention shall be provided immediately upon the juvenile's release from restraint as a result of physical force even if there is not visible evidence or complaint of injury. Staff certified in first aid and CPR may provide medical attention and are responsible for referring the juvenile to licensed medical personnel, if warranted.
- (9) Use of mechanical restraints. Any instrument of restraint must be approved by the facility administrator or designee.
 - (A) Restraints are used only:
 - (i) for self-protection;
 - (ii) to separate juveniles from fighting;
 - (iii) to restrain juveniles in danger of inflicting harm to themselves or others;
 - (iv) to restrain juveniles who have escaped or who are in the process of escaping; and
 - (v) prevent destruction of property if reasonably related to (i) through (iv).
 - (B) Restraints are used only with the approval of the facility administrator or designee.
 - (C) Restraints may not be used as a form of punishment.
 - (D) Restraints are used only as long as necessary and are removed as soon as the juvenile regains control of his/her behavior.
 - (E) When restraints are placed on a juvenile, such placement must be made by a trained and authorized staff member in a humane manner that does not restrict the juvenile's blood circulation.
 - (F) Juveniles shall not be restrained to an immovable object.
 - (G) A juvenile's hands and feet may be restrained, however restraining of the juvenile's hands to his or her feet is prohibited.
 - (H) The use of hog-tying is prohibited.
 - (I) A juvenile placed in restraints shall not be left unattended and must be continually supervised.
 - (J) A full written report is submitted by the end of the shift to the administrator following every use of an instrument of restraint.
- (10) **Chemical agents.** Facility staff shall not use chemical agents for security. Staff may not use tear gas, mace, pepper spray, and related chemical agents to control juveniles.
- (11) **Weapons.** Weapons are not permitted except when authorized by state law.
- (12) Procedures for separation from general population and/or general activities for disciplinary reasons. The following procedure shall be utilized as an intermediary level of intervention, which requires the continual line of sight and sound observation of the juvenile. If a juvenile is separated from the general population, the reasons for the separation and length of time shall be documented in the written daily observation of the juvenile. The separation should not be in excess of 60 minutes. Additional intervals shall be approved by a supervisor/administrator who was not involved in the original incident. Facilities which do not have another supervisor/administrator on site shall receive re-authorization from the on-call administrator. The reasons for the continued separation must be documented. The juvenile shall be released when staff determines that he or she can safely be returned to the group.
- (13) **Room restriction.** Room restriction is one means of informally resolving minor juvenile misbehavior. It serves a "cooling off" purpose and has a short time period (up to 60 minutes) that is specified at the time of the assignment.
- (14) **Room confinement.** Room confinement means locking a juvenile in his/her room when the juvenile has been charged with a major rule violation requiring confinement for his/her safety or the safety of others or to ensure the security of the facility.
 - (A) Room confinement is used with detained juveniles:
 - (i) for self-protection;
 - (ii) to separate juveniles from fighting;
 - (iii) to restrain juveniles in danger of inflicting harm to themselves or others;
 - (iv) to restrain juveniles who have escaped or who are in the process of escaping;
 - (v) to prevent destruction of property if reasonably related to (i) through (iv); and
 - (vi) stop behavior that incites other juveniles which jeopardizes the safety of staff and residents of the facility and is reasonably related to (i) through (iv).
 - (B) Room confinement of juveniles shall be re-authorized every 3 hours, except during normal sleeping hours, by a supervisor/administrator who was not involved in the original incident. Facilities which do not have another supervisor/administrator on site shall receive re-authorization every 3 hours from the on-call administrator. Reasons for continued room confinement shall be documented.

about:blank 7/13

- (C) A juvenile shall not be in room confinement in excess of 24 hours without the opportunity of an administrative review by the administrator or designee who was not involved in the incident. Any juvenile for whom it is determined by the administrator, or designee, to continue room confinement in excess of forty-eight (48) hours, must complete a report detailing the reasons for continued room confinement and submit it to the OJA for review within twenty-four (24) hours of exceeding the forty-eight (48) hours.
- (15) **Procedure for room confinement or room restriction.** When room restriction or confinement is used, the procedure given in (A) (E) of this paragraph is followed.
 - (A) Prior to room restriction or confinement, facility staff shall explain the reasons for the restriction or confinement to the juvenile and shall give the juvenile an opportunity to explain his or her behavior.
 - (B) Any juvenile shall be visibly observed by a staff member every 15 minutes, and this must be documented.
 - (C) Juveniles placed in room confinement shall be afforded living conditions and essential services approximating those available to the general juvenile population. Exceptions shall be justified in writing by clear and substantial evidence.
 - (D) The juvenile shall be released when staff determines juvenile can safely be returned to the group and no longer presents a safety risk to self or others.
 - (E) A written record shall be maintained on any juvenile placed in room restriction or confinement. It includes a log stating who authorized the action, names of persons observing the juvenile and times of observation, the person authorizing release, and the time of release.
- (16) **Escape and absence without leave.** The facility shall develop written policy and procedure for juveniles who escape from the facility or are absent without leave which shall include the notification of law enforcement agencies.

PART 7. REQUIRMENTS FOR COMMUNITY INTERVENTION CENTERS (CIC)

377:3-13-88. Personnel

- (a) Community Intervention Center (CIC) program director.
 - (1) **Qualifications.** The qualifications (including education and experience), authority, and responsibilities of the program director shall be specified in writing by the CIC's governing body, and include:
 - (A) a bachelor's degree; and
 - (B) one year of experience working with juveniles or working in the juvenile justice system.
- (b) **Direct-care staff qualifications.** All direct care staff shall be at least 21 years of age and possess a high school diploma or its equivalent or obtain a high school diploma or equivalent within the first year of employment.
- (c) **Background history records searches.** The Office of Juvenile Affairs, through direct request, shall require a records search for each applicant for employment, which shall include the following:
 - (1) a national criminal history records search based upon submission of fingerprints that shall be provided by the Oklahoma State Bureau of Investigation (OSBI), including the Rap Back notification, and the Federal Bureau of Investigation (FBI) National Child Protection Act, 42 U.S.C.A. § 5119a, and 74 O.S. § 150.9, provided both the OSBI and FBI act in their designated role;
 - (2) a search of the Oklahoma State Courts Network (OSCN) including Oklahoma District Court Records (ODCR);
 - (3) a search of the Department of Human Services (DHS) Child Care Restricted Registry, also known as Joshua's List;
 - (4) a search of the Department of Corrections (DOC) Sex Offender Registry;
 - (5) a search of the Department of Corrections (DOC) Violent Offender Registry, also known as the Mary Rippy Violent Crime Offenders Registry;
 - (6) a search of all applicable out-of-state child abuse and neglect registries if the applicant has not lived continuously in Oklahoma for the past five (5) years;
 - (A) The prospective applicant is not approved without the results of the out-of-state maintained child abuse and neglect registry checks, when a registry is maintained in the applicable state;
 - (B) When no child abuse and neglect registry is maintained in the applicable state, the facility shall request any information that can be provided; and
 - (7) a criminal history records search conducted by an authorized source, when an applicant has lived outside the United States within the last five (5) years.
 - (8) the Office of Juvenile Affairs shall make a direct request for background searches to be conducted on behalf of any:
 - (A) operator or responsible entity making a request to establish or operate a secure detention center, municipal juvenile facility, community intervention center or secure facility licensed or certified by the Office of Juvenile Affairs,
 - (B) employee or applicant of a secure detention center, municipal juvenile facility, community intervention center or secure facility licensed or certified by the Office of Juvenile Affairs, or
 - (C) persons allowed unsupervised access to children, including contract employees or volunteers, of a secure detention center, municipal juvenile facility, community intervention center or secure facility licensed or certified by the Office of Juvenile Affairs.

about:blank 8/13

- (d) **Criminal history investigation.** An employee's criminal history investigation record must be kept in a secure location, separate from his or her personnel file.
 - (1) A facility shall not employ or retain an individual who has been convicted of or entered a plea of guilty or nolo contendere to any felony involving:
 - (A) violence against a person;
 - (B) child abuse or neglect;
 - (C) possession, trafficking, manufacturing, sale or distribution of illegal drugs, or conspiracy to traffic, manufacture, sale, or distribute illegal drugs;
 - (D) sexual misconduct; or
 - (E) gross irresponsibility or disregard for the safety of others;
 - (F) any crime against a child; or
 - (G) in the case of child abuse and neglect, identified as a perpetrator in a juvenile court proceeding and/or has made an admission of guilt to a person authorized by state or federal laws or regulations to investigate child abuse and neglect.
 - (2) No employee of the CIC shall use or be under the influence of alcohol or illegal drugs during the hours of work nor shall any employee use or possess illegal drugs at any time.
 - (3) As to a simple drug possession offender, the facility may, at its own discretion, make exceptions to the prohibition of employment if five years have passed from completion of the applicant's criminal sentence and the facility can document that the health, safety, and well-being of juveniles would not be endangered.
 - (A) The facility shall consider, document, and submit to the Office of Public Integrity within 10 days of the employees first day of work the;
 - (i) type of crime or offense for which the individual was convicted or a finding was made; and
 - (ii) reference letters concerning the individual in question.
 - (B) The Office of Public Integrity may make a recommendation to the facility administrator as to whether the applicant for employment should be approved or disapproved.
 - (4) If any person is formally charged with any of the offenses described in OAC 377:3-13-88(d)(1), he or she must be removed from contact with juveniles until the charges are resolved.
 - (5) If there is an allegation that a staff member has committed an act as described in OAC 377:3-13-88(d)(1), the facility shall determine and document whether the staff member shall be removed from contact with juveniles until the allegation is resolved.
- (e) Health requirements. An employee's health record must be kept in a secure location, separate from his or her personnel file.
 - (1) Each employee must have a pre-employment physical conducted by a licensed physician.
 - (2) Testing for tuberculosis is not required on a routine basis. Tuberculin skin testing shall be required when there is a local identified tuberculin exposure identified by the Oklahoma State Department of Health.
 - (A) When a tuberculin skin test is required, employees with a positive skin test reaction must submit documentation by medical personnel that signs or symptoms of tuberculosis are not present.
 - (B) An employee who has ever had a positive skin test reaction must have or provide documentation of a chest x-ray. Additional tests or x-rays are not required unless symptoms develop that are suggestive of tuberculosis.
- (f) **Personnel records.** Every staff person employed by the CIC shall have a written personnel record, which complies with personnel policies of the municipality or service provider. The CIC shall have written personnel policies. The program director shall make personnel policies, which include written job descriptions, available to all employees. Either the policy or job description specifies the person to whom the employee is responsible and the duties the employee is expected to perform.
 - (1) Each personnel record must include:
 - (A) an application, resume, or staff information sheet that documents qualifications for the position;
 - (B) three reference letters, or if the reference was interviewed by phone, documentation of telephone interview must contain the:
 - (i) content of the interview:
 - (ii) date and time of the interview; and
 - (iii) name of employee conducting the telephone inter-view;
 - (C) documentation that the staff member was provided a copy of personnel policies, including his or her job description.
 - (D) written disciplinary action forms and job performance evaluations;
 - (E) dates of employment; and
 - (F) date and reason for employment separation or termination.
 - (2) Personnel records shall be maintained for at least three (3) years following an employee's separation.
 - (3) All employee records shall be confidential subject to existing federal and state statutes.
 - (4) All employees shall have access to their personnel files for reviewing purposes upon request to the program director and according to agency policy.

(g) Staff orientation.

(1) Each direct-care staff shall be provided orientation before being allowed to work independently In addition to a review of the certification standards and on-the-job training with an experienced staff member, the orientation must include a

about:blank 9/13

review of the CIC's:

- (A) policies and procedures;
- (B) philosophy and goals;
- (C) organization;
- (D) behavior management/crisis intervention training; and
- (E) job expectations for the individual employee.
- (2) Within 90 days of employment, each direct-care staff shall successfully complete first aid training. The training must be conducted by a certified instructor from the American Red Cross or its equivalent. The employee must be recertified in first aid every three years. First aid training may be counted as training hours. At least one staff person trained and certified in first aid shall be present in the CIC at all times.
- (3) Within 90 days of employment, each direct-care staff shall be certified in cardiopulmonary resuscitation (CPR). The employee shall be recertified annually. CPR certification and recertification may be counted as training hours. At least one staff person trained and certified in CPR shall be present at all times.
- (4) Within six (6) months of employment, each direct-care staff shall complete a certified class on behavior management; e.g., MAB, MANDT, CLEET, etc.
- (5) The CIC must maintain written documentation of each area in which the employee received orientation.

(h) Staff training.

- (1) All direct-care staff and program administrators shall obtain at least 24 clock hours of training per employment year. Hours are prorated for staff who have not been employed for a full year or are part-time employees.
- (2) Professional conferences, workshops, seminars, formal education classes, or in-service training are considered training.
- (3) Documentation of the employee's training shall be maintained in the employee's file.

PART 11. REQUIREMENTS FOR SECURE JUVENILE DETENTION CENTERSCARE

377:3-13-123. Provisional certification [REVOKED]

- (a) Secure facilities certified by the Department of Human Services as residential childcare facilities prior to November 1, 2009, shall receive provisional certification to operate as a secure juvenile facility for 180 days. Prior to the conclusion of the 180 days, the Office of Juvenile Affairs shall evaluate of the facility to ensure that the facility meets the certification standards promulgated by the Board of Juvenile Affairs for secure juvenile facilities.
- (b) The Office of Juvenile Affairs shall initially evaluate any newly established secure juvenile facility to ensure compliance with standards relating to staffing and the physical plant. A determination that the facility meets the standards shall result in the issuance of a provisional certification for 180 days and authorization for the placement of juveniles into the facility. Prior to the conclusion of the 180 days, the Office of Juvenile Affairs shall evaluate the facility to ensure that it meets all certification standards promulgated by the Board of Juvenile Affairs for secure juvenile facilities.
- (c) Denial or revocation of certification. When the operator of a secure juvenile facility is unable or unwilling to comply with standards promulgated by the Office of Juvenile Affairs' Board or has failed to adequately protect the health, safety and welfare of the juveniles in its facility, OJA may deny or revoke the facility's certification. OJA shall furnish thirty (30) calendar days written notice of the decision to deny or revoke certification and the grounds for such action. The facility operator shall have thirty (30) calendar days from receipt of the OJA notice of denial or revocation to protest the action in writing to the OJA Executive Director. An administrative hearing shall be convened where the facility operator will be given the opportunity to present testimony and witnesses. If the result of the hearing is to uphold the OJA action of denial or revocation, the facility operator may appeal to the district court pursuant to 12 O.S. § 951. In the event there is not an appeal, the secure juvenile facility shall cease operation on the effective date of the denial or revocation action.

377:3-13-144. Security and control

(a) Juvenile count.

- (1) At least one daily uninterrupted juvenile population count shall be conducted on each shift;
- (2) The results of the population count shall be transmitted to central control were it is documented and available at all times; and
- (3) No movement of juveniles shall be permitted during the population count.
- (b) Mail security. The secure facility shall have a mail security policy that shall include the following:
 - (1) A child shall have constant access to writing materials and may send mail without limitation, censorship or prior reading, and may receive mail without prior reading, except that mail may be opened in the presence of the child, without being read, to inspect for contraband, as defined by 57 O.S., § 21 or as otherwise defined by rules promulgated by the Board of Juvenile Affairs, or to inspect for material harmful to minors, as defined by 21 O.S., § 1040.75. Provided that, when based on legitimate facility interests of order and security as determined by the facility administrator, mail addressed to a child or sent by a child may be read, censored, or rejected, except that mail addressed to a child from the attorney of the child or sent by the child to the attorney of said child shall not be opened, censored, or withheld in any way. The child shall be notified when incoming or outgoing mail is withheld in part or in full.
 - (A) Legitimate facility interests may include but are not limited to:

about:blank 10/13

- (i) for security reasons where a clearly documented reason exists, e.g., the correspondent has aided the juvenile in planning an escape or has used the mail to send the juvenile contraband items;
- (ii) where it is clearly documented that the correspondence is from a person whose continued relationship poses a threat to the juvenile's treatment or rehabilitation; or
- (iii) when the correspondence is from correctional facility inmates whose continued relationship poses a threat to the juvenile's treatment or rehabilitation.
- (B) In any of the above cases, staff shall return the unopened mail to its point of origin, unless it is clearly documented that the correspondence is from a relative.

(c) Control of contraband and Facility Prohibited Item (FPI).

- (1) Contraband is defined as any item introduced or found in the secure facility, the mere presence or possession of which shall constitute a violation of criminal law. Contraband discovery procedures require:
 - (A) confiscation by staff with the completion of a report prior to the end of the shift;
 - (B) a log entry by staff containing the contraband description and names of involved person(s);
 - (C) placement of the contraband into secure storage;
 - (D) a notification to the facility administration for the initiation of a criminal investigation; and
 - (E) the establishment of a timeline and procedures for storing and disposing of contraband;
- (2) A Facility Prohibited Item (FPI) is defined as an item in an individual's possession or control, which is a violation of facility, or unit rules, but does not constitute a violation of criminal law. FPI discovery procedures require:
 - (A) The confiscation of the FPI by staff with the completion of a report prior to the end of the shift;
 - (B) a log entry by staff containing the FPI description and the names of involved person(s);
 - (C) non-perishable FPI confiscated from a juvenile shall be entered on the juvenile's personal property inventory and, if appropriate, returned upon the juvenile's release;
 - (D) all other non-perishable FPI confiscated from staff, visitors or others shall be inventoried and properly disposed of when no longer administratively necessary;
 - (E) all perishable FPI shall be photographed, if necessary, and immediately disposed of in an appropriate manner; and
 - (F) the opportunity for juveniles to challenge the confiscation of FPI through the established grievance procedure.

(d) Searches.

- (1) **General area search** is defined as a random search of all areas of the secure facility for the security and safety of the juveniles and staff.
 - (A) The facility administrator shall authorize the procedures through the distribution of a post order.
 - (B) The search shall be accomplished under the direction of a security shift supervisor by teams of two or more staff trained in conducting searches.
 - (C) The use of a canine may be authorized, if appropriate and available.
 - (D) Dates and times for the searches shall be at the discretion of the secure facility's administrator.
 - (E) The objective of the searches shall be to discover and confiscate contraband and/or FPI.
 - (F) The completion of staff reports shall be required before the end of shift.
- (2) **Specific area search** is defined as a search limited to a certain time and area involving juveniles' personal property in one or more juvenile living quarters.
 - (A) The search shall be based on reasonable suspicion that a juvenile(s) is in possession of contraband and/or FPI or without reasonable suspicion upon the routine transfer of a juvenile from one living area to another.
 - (B) A facility administrator shall authorize a search based upon reasonable suspicion while a shift supervisor or above shall authorize a search based on a routine transfer.
 - (C) The search shall be accomplished under the direction of a security shift supervisor by teams of two or more staff trained in conducting searches.
 - (D) The use of a canine may be authorized, if appropriate and available.
 - (E) The date and time for the search shall be specific to the event establishing reasonable suspicion or to the date, time and location of the routine juvenile transfer.
 - (F) The search objective shall be to discover and confiscate contraband and/or FPI and/or recover missing property and/or injurious item(s).
 - (G) The completion of staff reports shall be required prior to the end of shift.
- (3) **Juvenile body search** is defined as observing and touching the body to discover contraband and/or FPI and is described from the least intrusive to the most intrusive types of search:
 - (A) Pat search is considered to be a routine search and the least intrusive type of search.
 - (i) It shall be routinely conducted based on suspicion of contraband and/or FPI on the juvenile's person.
 - (ii) It shall be routinely conducted:
 - (I) Upon the completion of work assignments (i.e. kitchen, maintenance, etc.); or
 - (II) At the conclusion of visitation;
 - (III) After returning from recreation or from school; or
 - (IV) Following a restraint.

about:blank 11/13

- (iii) The search shall be conducted by a minimum of two staff members trained in searches, one of whom shall be the same gender as the juvenile, except in an emergency situation.
- (iv) Procedures for conducting the search include:
 - (I) The use of hands to pat the outside clothing covering the body;
 - (II) The back of the hands shall be used to pat the genitals, buttocks (males and females) and breasts (female); and
 - (III) The search may include the removal of coat, hat, gloves, shoes and socks.
- (v) A written report shall be required by the end of the shift only when an illegal and/or prohibited item(s) is found.
- (B) **Disrobement search** is considered intrusive and involves the complete removal of all clothing items from the body.
 - (i) This search requires reasonable suspicion that a juvenile(s) is in possession of contraband and/or injurious item(s) and shall be conducted pursuant to verbal or written authorization from the facility administrator or designee.
 - (ii) The search shall be routinely conducted:
 - (I) During admission to the secure facility; or
 - (II) During discharge from the secure facility; or
 - (III) Upon return from a pass; or
 - (IV) Upon return from any appointment, court appearance, event or activity outside the perimeter fence of the secure facility.
 - (iii) The search shall be accomplished under the direction of a security shift supervisor by a minimum of two staff members trained in searches, both of whom are the same gender as the juvenile.
 - (iv) The search shall be conducted in a professional manner in an area that prevents observation by other staff and/or other juveniles and not covered by surveillance cameras.
 - (v) A written report is required by the end of the shift whether or not an illegal and/or prohibited item(s) is found.
- (C) Cavity search is defined as a non-routine and intrusive search that involves medical personnel in searching the internal areas of body orifices.
 - (i) The search requires prior written authorization by the facility's administrator or designee based on written facts that would lead a reasonable person to believe a juvenile is carrying contraband and/or injurious item(s) in a body cavity.
 - (ii) The search shall only be conducted by a physician at the secure facility or by medical personnel at a local hospital.
 - (iii) A written report shall be required by the end of the shift documenting the search, including the names of the medical personnel involved, whether or not an illegal and/or prohibited item(s) is found.
- (4) Each facility shall maintain a stationary and mobile magnetometer in good working order. All juveniles, staff, and visitors shall be required to pass through the facility's magnetometer (metal detector), and hand-wand if necessary, prior to entry into the facility.

(e) Staff ratios.

- (1) The ratio of staff to juveniles on a unit shall not be less than 1 to <u>8</u>10 during waking hours and 1 to <u>10</u>12 during sleeping hours. For units composed entirely of secure individual sleeping rooms the ratio shall not be less than 1 to 10 during waking hours and 1 to 14 during sleeping hours.
- (2) At least one staff member of the same gender as the juveniles shall be on duty within the facility on each shift.
- (3) Juveniles shall be supervised at all times. Each secure facility shall maintain a plan that details the frequency of visual checks of juveniles made by the staff.

(f) Surveillance plan.

- (1) The secure facility shall have a plan for surveillance of all areas of the facility's perimeter. Outside lighting must be sufficient to provide visibility under all conditions with no blind spots.
- (2) The facility shall maintain a camera system that is in working condition and monitored by staff in real time with recording capabilities to maintain a minimum of ninety (90) days of video.

(g) Door security.

- (1) All perimeter security doors to the living units shall be locked and doors to vacant or unoccupied living units and storage rooms shall remain locked when not in use.
- (2) The facility shall maintain a backup release system that allows for the immediate release of juveniles from locked areas in the event of an emergency.

(h) Key control.

- (1) The facility's key control system shall include:
 - (A) The maintenance of a log of all keys with lock locations and names of employees possessing keys;
 - (B) Key storage that permits easy determination of the presence or absence of keys;
 - (C) The maintenance of at least one duplicate key for each lock in the facility;
 - (D) A central area from which keys are issued; and

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- (E) The labeling of all keys to include color-coding and touch identification of emergency keys.
- (F) No keys shall be taken off the premises except as authorized by the facility administrator.

(i) Physical force.

- (1) Use of force is authorized, as provided in 10A O.S., § 2-7-604 and 377:10-1-4.
- (2) Use of physical force requires a medical evaluation and photo(s) of the juvenile(s) immediately following the incident.
- (3) A written report is required prior to the end of shift following all uses of physical force.
- (j) Mechanical restraints. The standards regarding mechanical restraints are found in 10A O.S., § 2-7-604 and 377:10-1-4.
- (k) **Oleoresin Capsicum.** The use of Oleoresin Capsicum (OC) spray is prohibitedshall conform to 377:10-1-4.1.
- (1) Solitary Confinement.
 - (1) The use of confinement as a method of intervention with juveniles shall be limited to the following:
 - (A) Solitary confinement is the involuntary removal of a juvenile from contact with other persons by confinement in a locked room, including the juvenile's own room, except during normal sleeping hours. Solitary confinement is a serious and extreme measure to be imposed only in emergency situations. It may be imposed only upon a juvenile in a secure facility who is out of control and is a serious and immediate physical danger to him or herself or others, and only after less restrictive methods of control have failed.
 - (B) Solitary confinement shall not be used for punishment at any secure facility. No juvenile shall remain continuously in solitary confinement in excess of three (3) hours. As soon as the juvenile is sufficiently under control so as to no longer pose a serious and immediate danger to him or herself or others, the juvenile shall be released from solitary confinement. The use of such confinement is not limited to three (3) continuous hours within any twenty-four (24) hour period when the juvenile is out of control and poses a continuing serious and immediate physical danger to him or herself or others, provided that any juvenile who meets this required standard for such confinement for a period in excess of three (3) continuous hours must be examined by a licensed mental health professional at the conclusion of the 3-hour period.
 - (C) All rooms used for solitary confinement shall have at least eighty (80) square feet of floor space, and shall have toilets, potable water, and adequate lighting, heating/cooling, and ventilation for the comfort of the juvenile. Juveniles in solitary confinement shall have access to appropriate medical and psychological services.
 - (2) A facility shall establish procedures for solitary confinement that include:
 - (A) a log of events to include date, time, location and rationale;
 - (B) staff visual observation of juvenile behavior as documented every fifteen minute period the juvenile is in solitary confinement; and
 - (C) reauthorization by the facility administrator after every twenty-four (24) hour period of time the juvenile has been in solitary confinement.
 - (3) Juveniles are afforded living conditions and privileges based on their behavior.
 - (4) The establishment of a cool down period and time out periodas appropriate types of interventions for inappropriate juvenile behaviors.

(m) Firearms and tools.

- (1) Firearms shall not be permitted in the secure facility except for law enforcement officers during emergency situations.
- (2) All tools and kitchen utensils shall be classified, controlled and stored based on their level of risk for death or serious injury.
- (n) **Escape.** The facility shall develop procedures for apprehension of juveniles who escape from the facility to include notification of law enforcement agencies and OJA criminal investigators.

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